

RAILROAD COMMISSION OF TEXAS

GAS SERVICES DIVISION

GAS UTILITIES INFORMATION BULLETIN

No. 785



RAILROAD COMMISSION OF TEXAS

Elizabeth A. Jones, Chairman
Michael L. Williams, Commissioner
Victor G. Carrillo, Commissioner

Stephen L. Pitner
Director
Gas Services Division

December 12, 2005

DECEMBER 12, 2005

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Orders were issued in the following dockets:

GUD No. 9522	Interim Adjustment Provisions Proposed by CenterPoint Energy Entex in Statement of Intent Filed by Entex to Change Rates in the Environs of the City of Houston, Texas Severed From Gas Utilities Docket No. 9469. - <i>Dismissed</i>
GUD No. 9598	Appeal filed by Atmos Energy Corp., Mid-Texas Division for Review of Municipal Rate Actions Regarding the Annual GRIP from the Cities of Benbrook, Bridgeport, Everman, Justin, Keene, Kemp, Newark, et al. - <i>Nunc Pro Tunc</i>
GUD No. 9602	Statement of Intent filed by Markham Gas Corporation to Change Rates in the Unincorporated Areas of Markham, Texas. - <i>Final Order</i>
GUD No. 9605	Hemphill Contracting Co., Inc. d/b/a Mitchell County Utility Company Statement of Intent to Change Rates in the Environs of the City of Westbrook. - <i>Final Order</i>
GUD No. 9608	Application of Atmos Energy, West Texas Division for Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Areas of 66 Cities in the West Texas Rate Division. - <i>Final Order</i>
GUD No. 9609	Application of Atmos Energy, West Texas Division for Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Areas of the City of Lubbock, Texas. - <i>Final Order</i>
GUD No. 9615	Application of Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas for Test Year 2004 Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Area and Pipeline System. - <i>Final Order</i>
GUD No. 9623	Appeal filed by Atmos Energy Corp., Mid-Tex Division for Review of Municipal Rate Actions Regarding the Annual GRIP from the Cities of Alvarado, Anson, Argyle, Bardwell, Blooming Grove, Bridgeport, et al. - <i>Final Order</i>

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SECTION 1
NEW APPEALS AND APPLICATIONS FILED

DOCKET NO. -- 9626
CAPTION -- Application filed by Crosstex Gulf Coast Transmission, LTD. to Abandon Natural Gas Service to Centerpoint Energy Resources Corp., d/b/a Centerpoint Energy Entex.
DATE FILED -- December 1, 2005
FILED BY -- Dan R. Renner
EXAMINER -- Danny Bivens

DOCKET NO. -- 9627
CAPTION -- Application filed by Centerpoint Energy Resources Corp., d/b/a Centerpoint Energy Entex to Abandon Natural Gas Service to Residential Customers in Dewitt, Fort Bend, Victoria and Wharton Counties, Texas.
DATE FILED -- December 1, 2005
FILED BY -- Daniel R. Renner
EXAMINER -- Danny Bivens

DOCKET NO. -- 9628
CAPTION -- Appeal filed by Atmos Energy Corp., Mid-Tex Division for the Review of Municipal Rate Actions Regarding the Annual GRIP Filing from the Cities of Abbott, Alba, Alma, Alvord, et al.
DATE FILED -- December 5, 2005
FILED BY -- John K. Arnold
EXAMINER -- Stephen Pitner

SECTION 2
APPEALS AND APPLICATIONS SET FOR HEARING OR PREHEARING CONFERENCE

None at this time.

SECTION 3
STATUS OF PENDING CASES

None at this time.

SECTION 4
NOTICES OF DISMISSAL

DOCKET NO. -- 9522
CAPTION -- Interim Adjustment Provisions Proposed by CenterPoint Energy Entex in Statement of Intent Filed by Entex to Change Rates in the Environs of the City of Houston, Texas Severed From Gas Utilities Docket No. 9469
DATE DISMISSED -- December 16, 2005

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SECTION 5
ORDERS OF THE COMMISSION

BEFORE THE
RAILROAD COMMISSION OF TEXAS

APPEAL FILED BY ATMOS ENERGY CORP., MID-TEX DIVISION FOR REVIEW OF MUNICIPAL RATE ACTIONS REGARDING THE ANNUAL GRIP FROM THE CITIES OF BENBROOK, BRIDGEPORT, EVERMAN, JUSTIN, KEENE, KEMP, NEWARK, ET AL.	§ § § § § § § § § §	GAS UTILITIES DOCKET NO. 9598
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ORDER NUNC PRO TUNC

In conference in its office in Austin, Texas, the Railroad Commission of Texas took up for consideration the matter of correcting the Final Order entered on October 4, 2005, in Gas Utilities Docket No. 9598. The Final Order contains one clerical error in the listing of cities filing motions to intervene. Finding of Fact No. 9 incorrectly included the city of Kemp. The city of Kemp did not file a motion to intervene. The correct finding of fact No. 9, is as follows:

On August 12, 2005, the cities of Benbrook, Bridgeport, Everman, Justin, Keene, Newark, Red Oak, and Waxahachie filed with the Commission a Plea of Intervention in the cause of Atmos Energy Corp., Mid-Tex Division's application for an interim rate adjustment.

IT IS THEREFORE ORDERED THAT the Final Order in Gas Utilities Docket No. 9598, dated October 4, 2005, is hereby amended *nunc pro tunc* to reflect the corrected list cities that filed a motion to intervene, stated above.

SIGNED this 13th day of December 2005.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN ELIZABETH A. JONES

COMMISSIONER MICHAEL L. WILLIAMS

COMMISSIONER VICTOR CARRILLO

ATTEST

/s/ Kim Williamson
SECRETARY

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**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

STATEMENT OF INTENT FILED BY MARKHAM GAS CORPORATION TO CHANGE RATES IN THE UNINCORPORATED AREAS OF MARKHAM, TEXAS.	§ § § § § § §	GAS UTILITIES DOCKET NO. 9602
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FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 *et seq.* (Vernon 1994 & Supp. 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Markham Gas Corporation (Markham) owns and operates a gas distribution system in the unincorporated town of Markham, Texas in Matagorda, County.
2. Markham does not serve any customers within an incorporated area.
3. Markham's system consists of a small distribution system of mains and service lines serving approximately two hundred sixty-eight (268) customers in Matagorda, Texas, consisting of two-hundred sixty-four (264) residential customers and three (3) small commercial customers and one (1) public authority customer.
4. Markham does not serve any non-jurisdictional customers.
5. On August 4, 2005, Markham filed a Statement of Intent to increase rates with the Railroad Commission of Texas (Commission).
6. On September 7, 2005, the Commission suspended the implementation of Markham's proposed rates for 150 days after the date the rate schedule would otherwise be effective.
7. Markham provided notice to its two hundred sixty-eight (268) residential customers of the proposed rate increase using a bill insert on August 27, 2005, by United States Postal Service.
8. Markham's proposed effective date was with bills rendered on and after September 22, 2005.
9. Markham's present rates and last rate increase was effective January 6, 1998, in GUD Docket No. 8797.
10. The proposed rates, and the Examiner's recommendation, are based on Markham's Cost of Service as shown in Exhibit 'B' of this order.
11. Markham's Cost of Service is based on a test year of calendar year 2004.

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12. Based on Markham's Cost of Service, Markham has a net revenue deficiency of \$35,987.
13. The proposed rates will recover \$25,910 of the net revenue deficiency, leaving \$10,076 un-recovered.
14. Mr. Sardelich, President of Markham, is aware of the un-recovered amount but is sympathetic Markham's fixed income customers and does not want their budgets strained any more than necessary.
15. The current residential rate is a \$12.40 per month Customer Charge, and Minimum Bill, and a commodity rate of \$3.93 per Mcf per month, plus the cost of gas.
16. The proposed residential rate is a \$15.00 per month Customer Charge, and Minimum Bill, and a commodity rate of \$5.25 per Mcf per month, plus the cost of gas, shown in Exhibit "A."
17. The proposed increase is expected to generate approximately \$25,910 in additional revenue to Markham.
18. Markham proposes to increase the main line tap fee from \$125 to \$300 per tap request.
19. The increase in tap fee is expected to generate less than \$1,000 of gross revenue to Markham.
20. Markham does not propose any other changes to the miscellaneous service charges or the deposit amount.
21. Markham used a test year-end of December 31, 2004.
22. An overall Rate of Return of 13.50% is reasonable for a company of Markham's size.
23. A capital structure of 49.61% of long-term debt and 50.39% of common equity is reasonable.
24. A federal income tax rate of 18.5% is reasonable.
25. On November 28, 2005, Markham agreed, via Examiner's Letter No. 4, to accept into the record as filed the Statement of Intent, the Proposed Tariffs, the Notice to the Customers, and the schedules, workpapers, and affidavits without a formal hearing.
26. No protests were filed with the Commission regarding the proposed rate increase for Markham's service area, and no environs customer requested a hearing or filed a petition to intervene.
27. The "purchased gas adjustment clause" is not being changed in this docket and is reasonable under the criteria in 16 TEX. ADMIN. CODE § 7.55.
28. The base cost of gas included in the purchased gas adjustment clause is \$0.00 per Mcf.
29. Markham has submitted \$978.79 in rate case expense.

CONCLUSION OF LAW

1. Markham is a gas utility as defined in TEX. UTIL. CODE ANN. § 101.003 (7), and is subject to the Commission's jurisdiction pursuant to TEX. UTIL. CODE ANN. §§ 102.001 & 1104.001 (Vernon 1998 and Supp. 2004-2005).

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2. The Commission has jurisdiction over the subject matter of this case under TEX. UTIL. CODE ANN. § 104.102 (Vernon 1998).
3. The revenue, rates, and rate design recommended in the findings of fact are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. § 104.003 (Vernon 1998).
4. It is reasonable for the Commission to allow Markham to include a purchased gas adjustment clause in its rates to provide for the flow-through of all its gas costs, under 16 TEX. ADMIN. CODE § 7.5519 (West 2002).
5. Markham has met its burden of proving that the proposed rates are just and reasonable, under TEX. UTIL. CODE ANN. § 104.008 (Vernon 2004).
6. The proposed rate increase does not constitute a major change under TEX. UTIL. CODE ANN. '104.101 (Vernon Supp. 2004-2005).
7. Markham has a revenue deficiency excluding gas cost of \$35,987, as shown on Schedule 2.
8. Markham has proposed rates that will yield recovery of approximately \$25,910 of its revenue deficiency.
9. Rate case expense of \$978.79 is reasonable.
10. A monthly volumetric recovery rate of \$0.10 per Mcf from all customers until the \$978.79 is recovered is reasonable.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Markham's rates as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for service provided and gas delivered on and after the date of this order.

IT IS FURTHER ORDERED THAT Markham **SHALL** include in its purchased gas adjustment only its reasonable and necessary gas purchase expenses and that the reasonableness and prudence of Markham's gas purchases pursuant on its Purchased Gas Adjustment clause may be subject to an adjustment and potential refund in a subsequent proceeding.

IT IS FURTHER ORDERED THAT within 30 days of this order Markham **SHALL** electronically file, or cause to be filed, tariffs and rates schedules in proper form that accurately reflect the rates approved by the Commission in this Order, as shown in Exhibit "A."

IT IS FURTHER ORDERED THAT all customers shall be surcharged monthly at a rate of \$0.10 per Mcf for rate case expense as a result of this docket until \$978.79 is recovered.

IT IS FURTHER ORDERED that Markham may begin charging the approved rates as of the date of this Order. This order will not be final, however, until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

IT IS FURTHER ORDERED THAT all requested relief not specifically granted herein and all proposed Findings of Fact and Conclusions of Law not specifically adopted herein are **DENIED**.

RAILROAD COMMISSION OF TEXAS

/s/
VICTOR G. CARRILLO
COMMISSIONER

/s/ Kim Williamson
SECRETARY

MARKHAM GAS CORPORATION
PROPOSED TARIFFS

EXHIBIT A

Markham Gas Corporation 208 Broadway Street Markham, Matagorda County, Texas 77456	No.: Effective Date: Revision No.: Page 1 of 5
General Service Rate	

Environs of Markham, Matagorda County, Texas

Monthly Rate:

Subject to applicable rate adjustment provisions list below, the following rates are the maximum applicable to Residential, Commercial and Public Authority customers per meter billing month or any part of a billing month for which gas service is available at the same location.

Minimum	\$15.00 per Meter
Demand Charge	\$5.25 per Mcf

Bills are due and payable 15 days after issuance. A bill for utility service is considered delinquent if unpaid by the due date.

Applicable Rate Schedules**Rate Adjustment Provision:**

Gas Cost Adjustment
Revenue Related Tax Adjustment

Miscellaneous Service Charges:

Initial Turn-on/Transfer Fee
Returned Check
Leak Test Customer Premises
Meter Test on Request
Customer Deposit
Tapping Fee
Setting a Meter at Existing Tap
Service Call
Turn-off Fee for Non-Payment

Surcharges:

Rate Case Expense Surcharge
Other Surcharges

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Markham Gas Corporation 208 Broadway Street Markham, Matagorda County, Texas 77456	No.: Effective Date: Revision No.: Page 2 of 5
General Service Rate	

Environs of Markham, Matagorda County, Texas

Gas Cost Adjustment

Applicability:

This adjustment is applicable to all customers served by the utility, except for customers purchasing gas under a negotiated contract.

Purchased Gas Adjustment:

The monthly Purchased Gas Adjustment (PGA) shall be the cost of gas billed to the utility by the supplier(s) of gas to the system. The cost of gas shall be expressed in a per Mcf format by dividing the total amount purchased, plus all gas related costs from the supplier and third parties, in dollars by the amount of volume in Mcf purchased. The product, or Weighted Average Cost of Gas (WACOG), shall be called the PGA and billed to the customer per Mcf, or fraction thereof, consumed each month.

The PGA shall be calculated using actual amounts invoiced and billed by the supplier for the same approximate period that meters are read, i.e., amounts invoiced and billed by the supplier in January will be applied to meters read in January and billed to the customer in the following month. The Base Cost of Gas is \$0.00 per Mcf.

Any adjustment, refund and/or billing correction received by the utility for a prior period shall be included in the current month's PGA calculation.

The utility shall limit recovery of Lost and Unaccounted Gas (LUG) to actual, not to exceed a maximum of 5%, calculated each year for the twelve months ended June 30. In no case shall the utility collect more than its actual expense. Any over or under collection shall be refunded or collected in the following month when discovered by the utility.

Markham Gas Corporation 208 Broadway Street Markham, Matagorda County, Texas 77456	No.: Effective Date: Revision No.: Page 3 of 5
General Service Rate	

Environs of Markham, Matagorda County, Texas

Revenue Related Tax Adjustment:

Each monthly bill, as adjusted above shall also be adjusted by an amount equal to the various revenue related taxes or other fees and charges imposed by regulatory or governmental authorities. This includes, but is not limited to, Gross Receipts taxes, fees, or any other governmental imposition, fees or charges levied that is based on any portion of revenues billed by the utility or based on service lines, meters or other equipment.

Markham Gas Corporation 208 Broadway Street Markham, Matagorda County, Texas 77456	No.: Effective Date: Revision No.:
General Service Rate	

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Environs of Markham, Matagorda County, Texas**Miscellaneous Service Charges:**

Initial Turn-on/Transfer Fee	-	\$7.50
Returned Check -		\$20.00
Leak Test Customer Premises.....	-	\$15.00
Meter Test on Request	-	\$15.00
Customer Deposit		-\$75.00*
Tapping Fee-		\$300.00
Setting a Meter at Existing Tap-		\$75.00
Service Call-		\$24.00
Turn-off Fee for Non-Payment-.....		\$20.00

*Customer Deposit:

All customers requesting service shall comply with the utility's deposit requirements as stated in the Quality of Service Rules. The deposit amount shall be \$75.00.

Markham Gas Corporation 208 Broadway Street Markham, Matagorda County, Texas 77456	No.: Effective Date: Revision No.: Page 5 of 5
General Service Rate	

Environs of Markham, Matagorda County, Texas

Rate Case Expense Surcharge:

Rate case expenses will be recovered through a surcharge of \$0.10 per Mcf. The surcharge per Mcf will be collected monthly from the customer as a separate line item on the customer's bill.

Other Surcharges:

Markham will recover other surcharges as authorized by federal, state and local regulatory authorities in accordance with applicable statutes, laws, regulations, ordinances, orders, rules, contracts, or agreements.

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**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

HEMPHILL CONTRACTING CO., INC. D/B/A § MITCHELL COUNTY UTILITY COMPANY § STATEMENT OF INTENT TO CHANGE § RATES IN THE ENVIRONS OF THE CITY OF § WESTBROOK	GAS UTILITIES DOCKET NO. 9605
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FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, et seq. (Vernon 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. Hemphill Contracting Co., Inc. d/b/a Mitchell County Utility Company ("MCUC") is a gas utility that owns and operates a natural gas distribution system serving the city of Westbrook and its environs.
2. MCUC filed its *Statement of Intent* to increase rates in the Environs of the city of Westbrook on August 18, 2005.
3. MCUC's Statement of Intent included all required information and was complete.
4. MCUC's last rate case was in 1982.
5. MCUC seeks implementation of rates in the environs that are consistent with the rates approved by the city of Westbrook on September 13, 2005.
6. MCUC requested that the rates would become effective upon the latter of 35 days after the date of filing of this *Statement of Intent* or such other date as the new rates become effective in the city of Westbrook.
7. The Railroad Commission suspended the proposed rates for a period not to exceed one hundred fifty (150) days from the date the rates would otherwise go into effect on September 7, 2005, or until February 10, 2006.
8. The gas distribution system operated by MCUC was installed beginning in 1968, as a means of providing an alternative to liquid propane (LP) gas for customers in the area.
9. MCUC must compete with alternative energy such as LP gas and electricity. Those alternatives are available to all MCUC customers. Thus, MCUC must balance its need for additional revenues with its need to maintain rates competitive with alternative energy sources.
10. Approximately 46% of MCUC's customers are part-time residents who have a primary residence in other areas of the state, and most of the environs customers receive gas service at lake homes or vacation cabins.
11. The proposed increase in rates to all customers is expected to increase total annual operating revenues of MCUC by approximately \$91,827 resulting in overall revenues of \$241,997.

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12. The increase in total annual operating revenues will be composed as follows: \$11,450 of the total annual increase will be generated from sales to customers within the city of Westbrook and \$80,377 from customers within the environs of the city of Westbrook.
13. The increase would result in an increase of approximately 61% of total test-year revenues of \$150,170; this increase exceeds 2 ½% of total revenues.
14. MCUC presented a cost of service study with a test year that was twelve months ended December 31, 2004; the data submitted to the Commission in this docket encompasses a full test-year i.e., the twelve-month period ending December 31, 2004.
15. During the test year ended December 31, 2004, MCUC served an average of 49 residential customers and 1 commercial customer inside the city of Westbrook, and 345 residential customers and 6 commercial customers in the environs of the city.
16. Since its last rate case, the utility has lost approximately 17% of its environs residential customers and over 80% of its environs commercial customers which has resulted in a decline in overall revenues and a decline in minimum bill revenues.
17. MCUC notified the environs customers by publication in the *Colorado City Record* on August 25, 2005, September 1, 2005, September 8, 2005, and September 15, 2005.
18. No protests were filed with the Commission regarding the proposed rate increase for MCUC's Westbrook environs customer; no environs customers requested a hearing or filed a petition to intervene, and no hearing was held in this matter.
19. The proposed rate increase was reviewed through an informal proceeding and the following documents have been stipulated into the record of this case: (1) the *Statement of Intent*; (2) Testimony of Thomas A. Graves; (3) Affidavit of Publication; (4) Notice of the city of Westbrook Approval dated September 13, 2005; and (5) Response to Commissions' Questions (Seasonal Reconnect Fee).
20. The total amount of return is \$8,709 and is reasonable.
21. Due to the age of the system, rate base has declined to a point where it does not reflect the scope of the system being operated.
22. Opportunities to obtain additional capital investment from non-captive sources are limited to MCUC.
23. As noted in Finding of Fact 16 above, MCUC has experienced substantial constriction in its customer base since its last rate case.
24. As noted in Finding of Fact 10 above, a large portion of MCUC's current customer base is seasonal in nature.
25. The impact of the decrease in, and seasonal nature of, MCUC's customer base results in an increased risk to the operations of MCUC.
26. MCUC has one supplier of natural gas and, while interruptions of gas supply have not been experienced, MCUC continues to seek alternatives as the continuity of supply is of continuing concern.
27. An overall cost of equity in this case of 14% is reasonable for this utility considering its overall rate base, customer base, and limited access to additional capital investment from non-captive sources.

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28. An overall cost of debt of 6.55% is reasonable for this utility.
 29. An overall rate of return of 13.33% is reasonable for this utility.
 30. The depreciation calculation for the test year of \$7,870 and the depreciation rates reflected in Schedule 3a, Attachment A, are reasonable.
 31. MCUC proposes to implement the rate increase in two Phases. Phase I would be effective for twelve months after the effective date of this order and would be a partial increase in rates. Phase II will implement the full increase.
 32. Under Phase I, the monthly minimum rate will be \$10.00 and the charge per Mcf will be \$6.19.
 33. The Phase I rates apply to residential, commercial, and industrial customers.
 34. Under Phase II, the monthly minimum rate will be \$15.00 and the charge per Mcf will be \$7.17.
 35. The Phase II rates apply to residential, commercial, and industrial customers.
 36. MCUC seeks to revise its current service charges and filed testimony in support of those charges.
 37. MCUC's proposed service charges are reasonable. MCUC seeks to revise its current service charges as follows:
 - (a) New account turn on fee is \$20.00
 - (b) Reconnect fee is \$25.00
 - (c) Meter installation fee (existing stub) is \$50.00
 - (d) Returned check charge is \$20.00.
 - (e) Leak detection on customer premises, relighting of pilot lights is \$25.00 during normal business hours and \$40.00 after hours.
 38. In addition, MCUC seeks to impose a seasonal reconnect fee.
 39. As noted in Finding of Fact 10, several of MCUC's customers are seasonal customers; several of the seasonal non-resident customers disconnect for months at a time when they are away from lake properties and then reconnect when they return.
 40. Seasonal non-resident customers who have disconnected from the system do not pay a minimum monthly bill.
 41. The result of the seasonal disconnection is that part-time residents are subsidized by full-time residents; a seasonal reconnect fee will reduce this subsidy.
 42. MCUC proposed a seasonal reconnect fee equal to the monthly minimum bill times the number of months that service has been disconnected; the multiple of months shall not exceed twelve months.
 43. MCUC proposed seasonal reconnect fee may result in a fee that is \$180 once Phase II rates are implemented and is excessive.
 44. MCUC estimates that the average seasonal customer who decides to disconnect will disconnect for a period of five months.
 45. A seasonal reconnect fee that does not exceed \$90 is sufficient to recover the minimum bill for customers who

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disconnect from the system for a period of up to six months and is reasonable.

46. The seasonal reconnect fee shall apply only to the same customer at the same meter.
47. The Gas Cost Recovery Rule, 16, TEX. ADMIN. CODE ANN. § 7.5519, allows the recovery of part or all of the gas costs of a utility through a purchase gas adjustment clause.
48. The purchased gas adjustment clause is reasonable under the criteria in 16 TEX. ADMIN. CODE § 7.55, and should be approved.
49. MCUC's lost and unaccounted for gas shall not exceed the actual amount of lost and unaccounted for gas, to a maximum of five percent as required by 16 TEX. ADMIN. CODE § 7.5525.
50. Total rate case expenses in this proceeding are \$25,900.00 and are reasonable.
51. The documentation submitted by MCUC established that the rate case expenses incurred by MCUC were just and reasonable.
52. MCUC proposed recovery of all its rate case expenses through a seven year per Mcf surcharge of \$.30 per Mcf; this surcharge is reasonable.
53. Except for issues related to the Seasonal Reconnect Fee, the rates and the rate design proposed by MCUC and described in these finding of fact and the Tariff, attached as Attachment B, to this order are consistent with the rate design approved by the city of Westbrook for in-city customers and have been shown to be just and reasonable for environs customers.
54. Except for issues related to the Seasonal Reconnect Fee, MCUC met its burden of proof to submit sufficient evidence to allow the Commission to determine that MCUC's proposed rates are just and reasonable.

CONCLUSIONS OF LAW

1. CUC is a gas utility as defined in Texas Utilities Code (TUC). TEX. UTIL. CODE ANN. §§ 101.003(7) and 121.001 (Vernon Supp. 2004 - 2005).
2. The Commission has jurisdiction over the subject matter of this case under TEX. UTIL. CODE ANN. § 102.001 (Vernon 1998 & Supp. 2004 - 2005).
3. Under TEX. UTIL. CODE ANN. § 102.001 (Vernon 1998 & Supp. 2005), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.
4. Under the provisions of the Texas Utilities Code, Chapter 104 and 16 TEX. ADMIN. CODE § 7.205, 7.210, 7.220, and 7.315 (West 2004), a utility is required to seek Commission approval before increasing its rates and filing revised tariff schedules for Environs customers.
5. MCUC filed its *Statement of Intent* to change rates in accordance with the provisions of TEX. UTIL. CODE ANN. '104.102 (Vernon 1998 and Supp. 2004-2005), 16 TEX. ADMIN. CODE " 7.205, 7.210, and 7.220 (West 2004).
6. In accordance with 16 TEX. ADMIN. CODE ' 7.315 (West 2004), within thirty days of the effective date of any change to rates or services, MCUC is required to file with the Gas Services Division of the Commission its revised tariffs.

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7. The rates established in this Order will not yield more than a fair return on the adjusted value of the invested capital used and useful in providing service to the public, under TEX. UTIL. CODE ANN. § 104.052 (Vernon 1998 & Supp. 2004 - 2005).
8. MCUC's proposed increase is a major change. TEX. UTIL. CODE ANN. § 104.101 (Vernon 1998).
9. The Commission shall hold a hearing in every case in which the increase constitutes a major change. The Commission may, however, use an informal proceeding if the regulatory authority does not receive a complaint before the expiration of 45 days after the date notice of the increase is filed. TEX. UTIL. CODE ANN. § 104.105(b) (Vernon 1998).
10. MCUC's *Statement of Intent* was processed in accordance with the requirements of the Gas Utility regulatory Act (GURA), and the Administrative Procedure ACT, TEX. GOV'T CODE ANN. " 2001.001-2001.902 (Vernon 2000 and Supp. 2004 - 2005) (APA).
11. MCUC met its burden of proof, in accordance with TEX. UTIL. CODE ANN. ' 104.008 (Vernon 1998), that its rate change is just and reasonable.
12. The rates, operations, and services established in this docket are just and reasonable to customers and to the utilities, as expressed under TEX. UTIL. CODE ANN. '101.002 (Vernon 1998 and Supp. 2004 - 2005).
13. The rate case expenses enumerated in the finding of fact herein are reasonable and comply with 16 TEX. ADMIN. CODE ANN. § 7.57 (West 2004).
14. The revenue, rates, rate design and service charges in the findings of fact are just and reasonable; are not unreasonably preferential, prejudicial, or discriminatory; and are sufficient, equitable, and consistent in application to each class of consumer, as required by TEX. UTIL. CODE ANN. '104.003 (Vernon 1998).
15. The revenue, rates, and rate design established in the findings of fact and attached schedules are reasonable; fix an overall level of revenues for MCUC that will permit MCUC a reasonable opportunity to earn a reasonable return on invested capital used and useful in rendering service to the public over and above reasonable and necessary operating expenses, within the meaning and intent of TEX. UTIL. CODE ANN. '104.051 and '104.052 (Vernon 1998); and otherwise comply with Chapter 104 of the Texas Utilities Code.
16. TEX. UTIL. CODE ANN. '104.107 (Vernon 1998 and Supp. 2004-2005) provides the Commission authority to suspend the operation of the schedule of proposed rates for 150 days from the date the schedule would otherwise go into effect.
17. In accordance with TEX. UTIL. CODE ANN. '104.103 (Vernon 1998), 16 TEX. ADMIN. CODE ' 7.230 (2002), and 16 TEX. ADMIN. CODE ' 7.235 (West 2004), adequate notice was properly provided.
18. The Commission's decision, under 16 TEX. ADMIN. CODE § 7.5519 (West 2004), whether to allow a utility to recover gas cost through a purchased gas adjustment is discretionary.
19. It is reasonable for the Commission to allow MCUC to include a purchased gas adjustment clause in its rates to provide for the flow through of part or all of its gas costs, under 16 TEX. ADMIN. CODE § 7.5519 (West 2004).

IT IS ORDERED that the rates and rate design reflected in the findings of fact, in the Schedules, attached Tariff, and conclusions of law are **APPROVED**.

DECEMBER 12, 2005

IT IS FURTHER ORDERED that MCUC shall file tariffs incorporating rates consistent with this Order within thirty days of the date of this Order.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT MCUC's rates as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for bills rendered on and after the date of this order.

IT IS FURTHER ORDERED that **MCUC SHALL** include in its purchase gas adjustment only its reasonable and necessary gas purchase expenditures and may be subject to an adjustment and potential refund in a subsequent proceeding.

IT IS FURTHER ORDERED that the proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**. **IT IS ALSO ORDERED** that each exception to the Examiners' Proposal for Decision not expressly granted herein is overruled and all pending motions and requests for relief not previously granted herein are hereby **DENIED**.

IT IS FURTHER ORDERED THAT MCUC is authorized to recover, through a surcharge charged to ratepayers until recovered, the approved actual rate case expense of \$25,900.00 at a rate of \$.30 per Mcf.

IT IS FURTHER ORDERED THAT MCUC may begin charging the approved rates as of the date of this order. This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

SIGNED this 29th day of November, 2005.

RAILROAD COMMISSION OF TEXAS

/s/
ELIZABETH A. JONES
CHAIRMAN

/s/
MICHAEL L. WILLIAMS
COMMISSIONER

/s/
VICTOR G. CARRILLO
COMMISSIONER

ATTEST

/s/ Kim Williamson
SECRETARY

*****Exhibits and schedules for this docket were not available electronically*****

DECEMBER 12, 2005

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

APPLICATION OF ATMOS ENERGY, WEST TEXAS DIVISION FOR ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM RATE ADJUSTMENT FOR THE ENVIRONS AREAS OF 66 CITIES IN THE WEST TEXAS RATE DIVISION.	§ § § § § § § §	GAS UTILITIES DOCKET NO. 9608
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FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Background

1. Atmos Energy, West Texas Division (Atmos West Texas) is a "gas utility," as that term is defined in the TEXAS UTILITY CODE, and is subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. On September 2, 2005, Atmos West Texas filed an application for an annual interim rate adjustment applicable to customers located in its West Texas System environs area, identified in Exhibit A.
3. Atmos West Texas requested that the interim rate adjustments for all customer classes become effective on November 1, 2005.
4. On September 12, 2005, the Commission suspended implementation of Atmos West Texas' proposed interim rate adjustments until December 16, 2005, which is 45 days following the 60th day after the applications were complete.
5. This docket establishes the first annual interim rate adjustment for Atmos West Texas.
6. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005), a utility could not increase its rates applicable to environs customers without filing with the Commission a formal statement of intent rate case, including a comprehensive cost of service rate review.
7. Atmos' West Texas' proposed interim rate adjustments will allow Atmos West Texas an opportunity to recover a return on investment, depreciation expense, and related taxes on the incremental cost of infrastructure investment since its last rate case, without the necessity of filing a statement of intent rate case and without review by the Commission of Atmos West Texas' comprehensive cost of service.

DECEMBER 12, 2005

Applicability

8. This docket applies to only those rates over which the Commission has original jurisdiction with the exception of rates negotiated separately.
9. As of calendar year-end 2004, Atmos West Texas environs customers included approximately 1,642,502 Residential customers, 153,010 Commercial customers, and 4,086 Industrial customers 18,722 Public Authority customers, and 1,077 State Institution customers.

Most Recent Comprehensive Rate Case

10. Atmos West Texas' most recent rate case for the area in which the interim rate adjustment will be implemented is GUD No. 9573, *Statement of Intent Filed by Atmos Energy Corporation to Increase Rates and Change Tariffs in the Environs of the West Texas Service Area*.
11. GUD No. 9573 was filed on February 25, 2005.
12. The data used in GUD Docket No. 9573 was based on a test-year ending March 31, 2003.
13. The Commission signed the GUD No. 9573 final Order on July 11, 2005, and the rates became effective the same day.
14. The rates currently charged by Atmos West Texas were set by the Commission in GUD No. 9573.
15. The following chart shows the factors that were used for Atmos West Texas to establish or used in the final Order setting rates in GUD No. 9573 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes.

GUD NO. 9573 CALCULATION FACTORS

	Rate/Factor
Rate of Return	8.77 %
Depreciation Rate	3.03 %
Federal Income Tax Rate	35 %
Ad Valorem Tax Rate	1.56 %

Interim Rate Adjustment

16. Atmos West Texas seeks approval from the Commission for an adjustment to its revenue, based on incremental net utility plant investment, with regard to the following components: return on investment; depreciation expense; ad valorem taxes; revenue related taxes; and federal income taxes.
17. The revenue amounts to be recovered through Atmos West Texas' proposed annual interim rate adjustments are incremental to the revenue requirement established in Atmos West Texas' most recent rate case for the area in which the interim rate adjustment is to be implemented, i.e., GUD No. 9573.
18. Atmos West Texas calculated and presented all incremental values for investment, accumulated depreciation, return on investment, depreciation expense, ad valorem taxes, and incremental federal income taxes on a full calendar-year basis.
19. To request its interim rate adjustments in this docket, Atmos West Texas submitted data for the calendar year ending December 31, 2004.

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20. For the first interim rate adjustment following a rate case, the amounts by which Atmos may adjust its rates are based on the difference between Atmos West Texas' invested capital at the end of the most recent rate case test-year and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year.
21. The value of Atmos' invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment for Atmos West Texas interim rate adjustments.
22. Atmos West Texas' incremental net utility plant investment is \$15,239,252.
23. Atmos West Texas is required to use the same factors to calculate the interim return on investment, depreciation expense, and incremental federal income tax as those established or used in the final order setting rates in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented.
24. Atmos West Texas is required to allocate the revenue to be collected through the interim rate adjustment among its customer classes in the same manner as the cost of service was allocated among its customer classes in its most recent rate case for the area in which the interim rate adjustment is to be implemented.
25. Atmos West Texas proposed the interim rate adjustment as a flat rate to be applied to the monthly customer charges and monthly meter charges rather than as a volumetric rate to be applied to the initial block usage rates.
26. Atmos West Texas is required to show its annual interim rate adjustments on its customers' monthly billing statements as a surcharge.
27. The proposed interim rate adjustment does not require an evidentiary proceeding; rather, TEXAS UTILITIES CODE, §104.301 and 16 TEX. ADMIN. CODE, §7.7101 require the regulatory authority to review a utility's method of calculating the interim rate adjustment.
28. Due process protections are deferred until Atmos West Texas files its next rate case.

Notice

29. Atmos West Texas provided adequate notice by bill insert to its customers beginning on September 27, 2005 and ending on October 25, 2005.

Comprehensive Rate Case Required

30. Atmos West Texas is not required to initiate a rate case supporting a statement of intent, at the time it applies for an interim rate adjustment.
31. A gas utility that implements an interim rate adjustment and does not file a rate case before the fifth anniversary of the date its initial interim rate adjustment became effective is required to file a rate case not later than the 180th day after that anniversary.

Review of Interim Rate Adjustment

32. Atmos West Texas' proposed allocation methodology complies with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
33. It is reasonable for the Commission to approve Atmos West Texas' allocation methodology, as proposed in its application.
34. For an allocation methodology, it is reasonable for the Commission to approve the use of Atmos West Texas' overall cost of service (less other revenue, gas cost, and revenue related taxes) as determined in its most recent rate case. The

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following overall cost of service allocation factors for use in the calculation of Atmos West Texas' interim rate adjustment are reasonable:

Customer Class	Allocation Factors
Atmos West Texas:	
Residential (R)	0.7039
Commercial (C)	0.1860
Industrial (I)	0.0485
Public Authority (PA)	0.0566
State Institution (SI)	0.0051

35. Atmos West Texas' proposed customer and meter counts comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
36. It is reasonable for the Commission to approve Atmos West Texas' applications for interim rate adjustments, Exhibit B. The following amounts of interim rate adjustment revenue and additional customer charges by customer class are reasonable:

Customer Class	Interim Rate Adjustment Revenue	Customer Charge as Approved in GUD No. 9573	IRA Customer / Meter Charges	Proposed Customer Charge
Residential (R)	\$1,787,476.35	\$8.50	\$ 1.09	\$ 9.59
Commercial (C)	472,256.99	\$14.00	\$ 3.09	\$17.09
Industrial (I)	123,263.72	\$55.00	\$30.17	\$85.17
Public Authority (PA)	143,604.52	\$42.00	\$ 7.67	\$49.67
State Institution (SI)	12,824.10	\$40.74	\$11.91	\$52.65
Total IRA Revenue	\$2,539,425.68			

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Reimbursements of Expense

37. As provided for in the statute and the rule, a gas utility that implements an interim rate adjustment is required to reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.
38. After the Commission has finally acted on Atmos West Texas' application for an interim rate adjustment, the Director of the Gas Services Division will estimate Atmos West Texas' proportionate share of the Commission's annual costs related to the processing of such applications.
39. In making the estimate of Atmos West Texas' proportionate share of the Commission's annual costs related to the processing of such applications, the Director will take into account the number of utilities the Commission reasonably expects to file for interim rate adjustments during the fiscal year, and the costs expected to be incurred in processing such applications.
40. Atmos West Texas is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division and approved by the Commission, within thirty days after receipt of notice of the amount of the reimbursement.

CONCLUSIONS OF LAW

Atmos Energy, West Texas Division (Atmos West Texas) is a "gas utility" as defined in TEX. UTIL. CODE ANN. § 101.003(7) (Vernon 1998 and Supp. 2004) and § 121.001 (Vernon 1998 and Supp. 2004-2005), and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).

The Commission has jurisdiction over Atmos West Texas, Atmos West Texas' applications for interim adjustments for incremental changes in investment, and the subject matter of this case under TEX. UTIL. CODE ANN. §102.001, §104.001, §104.002, and §104.301 (Vernon 1998 and Supp. 2004-2005).

Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004-2005), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.

Under the provisions of the TEXAS UTILITIES CODE ANN. §104.301 and 16 TEX. ADMIN. CODE § 7.7101 (2004), Atmos West Texas is required to seek Commission approval before implementing an interim rate adjustment tariff for environs customers.

Atmos West Texas filed its applications for interim rate adjustments for changes in investment in accordance with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

Atmos West Texas' application for an interim rate adjustment was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE §7.7101 (2004).

In accordance with 16 TEX. ADMIN. CODE § 7.315 (2002), within thirty days of the effective date of any change to rates or services, Atmos West Texas is required to file with the Gas Services Division of the Commission its revised tariffs.

Atmos West Texas may not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE ANN. § 102.151 and 104.002 and 16 TEX. ADMIN. CODE § 7.315 (2002).

In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(a) (2004), the filing date of Atmos West Texas' most recent rate case, in which there is a final order setting rates

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for the area in which the interim rate adjustment will apply, was no more than two years prior to the date Atmos filed its initial interim rate adjustment.

Atmos West Texas is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(d) (2004), to file with the Commission an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

Atmos West Texas shall include in all future annual interim rate adjustment filings, relocation project reports that provide additional information about relocation project costs included in investment projects, in the same format as required in this docket.

Atmos West Texas is required, under TEX. UTIL. CODE ANN. §104.301(f) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004), to file with the Commission an annual earnings monitoring report demonstrating the Utility's earnings during the preceding calendar year.

Atmos West Texas is required, under 16 TEX. ADMIN. CODE §7.7101(h) (2004), to recalculate its approved interim rate adjustments annually and is required to file an application for an annual adjustment no later than 60 days prior to the one-year anniversary of the proposed implementation date of the previous interim rate adjustment application.

In accordance with 16 TEX. ADMIN. CODE § 7.7101(i) (2004), all amounts collected from customers under Atmos West Texas' interim rate adjustment tariffs or rate schedules are subject to refund. The issues of refund amounts, if any, and whether interest should be included on refunded amounts and, if so, the rate of interest, shall be addressed in the rate case a gas utility files or the Commission initiates after the implementation of an interim rate adjustment and shall be the subjects of specific findings of fact in the Commission's final order setting rates.

In accordance with 16 TEX. ADMIN. CODE § 7.7101(j) (2004), in the rate case that Atmos West Texas files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall be fully subject to review for reasonableness and prudence. Upon issuance of a final order setting rates in the rate case that Atmos West Texas files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall no longer be subject to review for reasonableness or prudence.

The Commission has authority to suspend the implementation of the interim rate adjustment, under TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004).

Atmos West Texas provided adequate notice, in accordance with TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(b) (2004).

Atmos West Texas' applications for interim rate adjustments, as proposed, comply with all provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

Atmos West Texas' interim rate adjustments established in the findings of fact and conclusions of law, comply with the provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

In accordance with TEX. UTIL. CODE ANN. § 104.301(h) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(i) (2004), Atmos West Texas shall file a comprehensive rate case for the areas in which the interim rate adjustment is implemented, not later than the 180th day after the fifth anniversary of the date its initial interim rate adjustment became effective.

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The Commission has authority, under TEX. UTIL. CODE ANN. § 104.301(j) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(m) (2004), to recover from Atmos West Texas the Utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Atmos West Texas' interim rate adjustments as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for bills rendered after December 13, 2005.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, a relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, an annual earnings monitoring report demonstrating Atmos West Texas's earnings during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, recalculations of its approved interim rate adjustments and applications for annual interim rate adjustments for the preceding calendar year.

IT IS FURTHER ORDERED THAT within 30 days of this order Atmos West Texas **SHALL** electronically file its interim rate adjustment tariffs in proper form that accurately reflect the rates approved by the Commission in this Order.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** not charge any rate that has not been electronically filed and accepted by the Commission as a tariff.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** reimburse the expenses incurred by the Commission in reviewing these applications. The amount of this reimbursement shall be determined by the Director of the Gas Services Division and must be approved by the Commission. This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

Any portion of the Utility's application not expressly granted herein is overruled. All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 13th day of December, 2005.

RAILROAD COMMISSION OF TEXAS

/s/

ELIZABETH A. JONES
CHAIRMAN

MICHAEL L. WILLIAMS
COMMISSIONER

/s/
VICTOR G. CARRILLO
COMMISSIONER

ATTEST

/s/ Kim Williamson
SECRETARY

EXHIBIT A

Environs Areas of 66 Cities

Atmos Energy Company

West Texas Distribution System - OCL

WEST TEXAS ENVIRONS AND UNINCORPORATED CITIES	
6702Abernathy WT Environs	6774Odessa WT Environs
6704Amherst WT Environs	6776O'Donnell WT Environs
6706Anton WT Environs	6778Olton WT Environs
6708Big Spring WT Environs	6780Opdyke West WT Environs
6710Bovina WT Environs	6782Palisades WT Environs
6712Brownfield WT Environs	6784Pampa WT Environs
6714Buffalo Springs Lake WT Environs	6786Panhandle WT Environs
6716Canyon WT Environs	6788Petersburg WT Environs
6718Coahoma WT Environs	6790Plainview WT Environs
6720Crosbyton WT Environs	6792Post WT Environs
6722Dimmitt WT Environs	6794Quitaque WT Environs
6724Earth WT Environs	6796Ralls WT Environs
6726Edmonson WT Environs	6798Ransom Canyon WT Environs
6728Floydada WT Environs	6800Ropesville WT Environs
6730Forsan WT Environs	6802Seagraves WT Environs
6732Friona WT Environs	6804Seminole WT Environs
6734Hale Center WT Environs	6806Shallowater WT Environs
6736Happy WT Environs	6808Silverton WT Environs

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6738Hart WT Environs	6810Slaton WT Environs
6740Hereford WT Environs	6812Smyer WT Environs
6742Idalou WT Environs	6814Springlake WT Environs
6744Kress WT Environs	6816Stanton WT Environs
6746Lake Tanglewood WT Environs	6818Sudan WT Environs
6748Lamesa WT Environs	6820Tahoka WT Environs
6750Levelland WT Environs	6822Timbercreek Canyon WT Environs
6752Littlefield WT Environs	6824Tulia WT Environs
6754Lockney WT Environs	6826Turkey WT Environs
6756Lorenzo WT Environs	6828Vega WT Environs
6758Los Ybanez WT Environs	6830Wellman WT Environs
6762Meadow WT Environs	6832Wilson WT Environs
6764Midland WT Environs	6834Wolfforth WT Environs
6766Muleshoe WT Environs	6835Southland WT Unincorporated
6768Nazareth WT Environs	6836Whitharral WT Unincorporated
6770New Deal WT Environs	6837Welch WT Unincorporated
6772New Home WT Environs	6838Greenwood WT Unincorporated

EFFECTIVE:

ISSUED BY:

C.W. Guy, Vice President - Rates & Regulatory
Affairs

EXHIBIT B

IRA Rider Tariff

DECEMBER 12, 2005

Exhibit "A"

Atmos Energy, West Texas Division
West Texas Service Area
WTX Rate Division

Rider: IRA

Infrastructure Rate Adjustment

Applicability

Company may implement an adjustment (called "Infrastructure Rate Adjustment" or "IRA") to the Customer Charge or Meter Charge contained in Residential, Commercial, Industrial, Public Authority and State Institution rate schedules. The Rider IRA adjustment will become effective 60 days after the Company files (i) an annual report pursuant to Texas Utilities Code (TUC) Section 104.301(e), describing the investment projects completed and placed in service during the preceding calendar year and/or partial years since the Company's last test year end and the investments retired or abandoned during the same period, and (ii) an earnings monitoring report pursuant to TUC Section 104.103(f), demonstrating Company's System Earnings during the preceding calendar year.

Method of Calculation

The IRA is determined by applying the appropriate factors for depreciation expense, property taxes, revenue related taxes, return and federal income taxes from the Company's last approved rate case for the West Texas Rate Division to the change in either Utility Plant Investment or Net Utility Plant Investment, from the end of the previous calendar year per book amounts to either (a) the last effective rate case Utility Plant or Net Utility Plant Investment amounts if the test year utilized in such rate case was the second previous calendar year or (b) the end of the second previous calendar year per book Utility Plant or Net Utility Plant Investment amounts. The individual rate class adjustments for Residential, Commercial, Industrial, Public Authority and State Institution schedules shall be calculated as provided for on Schedule IRA-16 of the GRIP filing.

Increase per Bill per Month

(to be applied to monthly customer charge)

Residential	\$1.09
Commercial	\$3.09
Industrial	\$30.17
Public Authority	\$7.67
State Authority	\$11.91

DECEMBER 12, 2005

EFFECTIVE:

ISSUED BY: C.W. Guy, Vice President – Rates & Regulatory Affairs

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

APPLICATION OF ATMOS ENERGY, WEST TEXAS DIVISION FOR ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM RATE ADJUSTMENT FOR THE ENVIRONS AREAS OF CITY OF LUBBOCK, TEXAS.	§ § § § § § §	GAS UTILITIES DOCKET NO. 9609
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FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Background

1. Atmos Energy, West Texas Division (Atmos West Texas) is a “gas utility,” as that term is defined in the TEXAS UTILITY CODE, and is subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. On September 2, 2005, Atmos West Texas filed an application for an annual interim rate adjustment applicable to customers located in its West Texas System environs area of the city of Lubbock, Texas.
3. Atmos West Texas requested that the interim rate adjustments for all customer classes become effective on November 1, 2005.
4. On September 12, 2005, the Commission suspended implementation of Atmos West Texas’ proposed interim rate adjustments until December 16, 2005, which is 45 days following the 60th day after the applications were complete.
5. This docket establishes the first annual interim rate adjustment for Atmos West Texas.
6. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005), a utility could not increase its rates applicable to environs customers without filing with the Commission a formal statement of intent rate case, including a comprehensive cost of service rate review.
7. Atmos’ West Texas’ proposed interim rate adjustments will allow Atmos West Texas an opportunity to recover a return on investment, depreciation expense, and related taxes on the incremental cost of infrastructure investment since its last rate case, without the necessity of filing a statement of intent rate case and without review by the Commission of Atmos West Texas’ comprehensive cost of service.

DECEMBER 12, 2005

Applicability

8. This docket applies to only those rates over which the Commission has original jurisdiction with the exception of rates negotiated separately.
9. As of calendar year-end 2004, Atmos West Texas Lubbock environs customers included approximately 761,335 Residential customers, 74,533 Commercial customers, and 1,009 Industrial customers, 1,900 Public Authority customers, and 666 State Institution customers.

Most Recent Comprehensive Rate Case

10. Atmos West Texas' most recent rate case for the area in which the interim rate adjustment will be implemented is GUD No. 9533, *Statement of Intent Filed by Atmos Energy Corporation to Change Rates in the Environs of Lubbock, Texas*.
11. GUD No. 9563 was filed on January 10, 2005.
12. The data used in GUD Docket No. 9563 was based on a test-year ending March 31, 2003.
13. The Commission signed the GUD No. 9563 final Order on June 21, 2005, and the rates became effective the same day.
14. The rates currently charged by Atmos West Texas were set by the Commission in GUD No. 9563.
15. The following chart shows the factors that were used for Atmos West Texas to establish or used in the final Order setting rates in GUD No. 9563 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes.

GUD NO. 9573 CALCULATION FACTORS

	Rate/Factor
Rate of Return	9.15 %
Depreciation Rate	3.35 %
Federal Income Tax Rate	35 %
Ad Valorem Tax Rate	1.17 %

Interim Rate Adjustment

16. Atmos West Texas seeks approval from the Commission for an adjustment to its revenue, based on incremental net utility plant investment, with regard to the following components: return on investment; depreciation expense; ad valorem taxes; revenue related taxes; and federal income taxes.
17. The revenue amounts to be recovered through Atmos West Texas' proposed annual interim rate adjustments are incremental to the revenue requirement established in Atmos West Texas' most recent rate case for the area in which the interim rate adjustment is to be implemented, i.e., GUD No. 9563.
18. Atmos West Texas calculated and presented all incremental values for investment, accumulated depreciation, return on investment, depreciation expense, ad valorem taxes, and incremental federal income taxes on a full calendar-year basis.
19. To request its interim rate adjustments in this docket, Atmos West Texas submitted data for the calendar year ending December 31, 2004.

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20. For the first interim rate adjustment following a rate case, the amounts by which Atmos may adjust its rates are based on the difference between Atmos West Texas' invested capital at the end of the most recent rate case test-year and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year.
21. The value of Atmos' invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment for Atmos West Texas interim rate adjustments.
22. Atmos West Texas' incremental net utility plant investment is \$7,357,921.
23. Atmos West Texas is required to use the same factors to calculate the interim return on investment, depreciation expense, and incremental federal income tax as those established or used in the final order setting rates in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented.
24. Atmos West Texas is required to allocate the revenue to be collected through the interim rate adjustment among its customer classes in the same manner as the cost of service was allocated among its customer classes in its most recent rate case for the area in which the interim rate adjustment is to be implemented.
25. Atmos West Texas proposed the interim rate adjustment as a flat rate to be applied to the monthly customer charges and monthly meter charges rather than as a volumetric rate to be applied to the initial block usage rates.
26. Atmos West Texas is required to show its annual interim rate adjustments on its customers' monthly billing statements as a surcharge.
27. The proposed interim rate adjustment does not require an evidentiary proceeding; rather, TEXAS UTILITIES CODE, §104.301 and 16 TEX. ADMIN. CODE, §7.7101 require the regulatory authority to review a utility's method of calculating the interim rate adjustment.
28. Due process protections are deferred until Atmos West Texas files its next rate case.

Notice

29. Atmos West Texas provided adequate notice by bill insert to its customers beginning on September 27, 2005 and ending on October 25, 2005.

Comprehensive Rate Case Required

30. Atmos West Texas is not required to initiate a rate case supporting a statement of intent, at the time it applies for an interim rate adjustment.
31. A gas utility that implements an interim rate adjustment and does not file a rate case before the fifth anniversary of the date its initial interim rate adjustment became effective is required to file a rate case not later than the 180th day after that anniversary.

Review of Interim Rate Adjustment

32. Atmos West Texas' proposed allocation methodology complies with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
33. It is reasonable for the Commission to approve Atmos West Texas' allocation methodology, as proposed in its application.

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34. For an allocation methodology, it is reasonable for the Commission to approve the use of Atmos West Texas' overall cost of service (less other revenue, gas cost, and revenue related taxes) as determined in its most recent rate case. The following overall cost of service allocation factors for use in the calculation of Atmos West Texas' interim rate adjustment are reasonable:

Customer Class	Allocation Factors
Atmos West Texas:	
Residential (R)	0.7290
Commercial (C)	0.2060
Industrial (I)	0.0310
Public Authority (PA)	0.0260
State Institution (SI)	0.0080

35. Atmos West Texas' proposed customer and meter counts comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
36. It is reasonable for the Commission to approve Atmos West Texas' applications for interim rate adjustments, Exhibit B. The following amounts of interim rate adjustment revenue and additional customer charges by customer class are reasonable:

Customer Class	Interim Rate Adjustment Revenue	Customer Charge as Approved in GUD No. 9573	IRA Customer / Meter Charges	Proposed Customer Charge
Residential (R)	\$921,210.82	\$9.45	\$ 1.21	\$ 10.66
Commercial (C)	260,314.72	\$14.50	\$ 3.49	\$17.99
Industrial (I)	39,173.57	\$55.00	\$38.82	\$93.82
Public Authority (PA)	32,855.26	\$41.00	\$17.29	\$58.29
State Institution (SI)	10,109.31	\$38.95	\$15.18	\$54.13
Total IRA Revenue	\$1,263,66.68			

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Reimbursements of Expense

37. As provided for in the statute and the rule, a gas utility that implements an interim rate adjustment is required to reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.
38. After the Commission has finally acted on Atmos West Texas' application for an interim rate adjustment, the Director of the Gas Services Division will estimate Atmos West Texas' proportionate share of the Commission's annual costs related to the processing of such applications.
39. In making the estimate of Atmos West Texas' proportionate share of the Commission's annual costs related to the processing of such applications, the Director will take into account the number of utilities the Commission reasonably expects to file for interim rate adjustments during the fiscal year, and the costs expected to be incurred in processing such applications.
40. Atmos West Texas is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division and approved by the Commission, within thirty days after receipt of notice of the amount of the reimbursement.

CONCLUSIONS OF LAW

Atmos Energy, West Texas Division (Atmos West Texas) is a "gas utility" as defined in TEX. UTIL. CODE ANN. § 101.003(7) (Vernon 1998 and Supp. 2004) and § 121.001 (Vernon 1998 and Supp. 2004-2005), and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).

The Commission has jurisdiction over Atmos West Texas, Atmos West Texas' applications for interim adjustments for incremental changes in investment, and the subject matter of this case under TEX. UTIL. CODE ANN. §102.001, §104.001, §104.002, and §104.301 (Vernon 1998 and Supp. 2004-2005).

Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004-2005), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.

Under the provisions of the TEXAS UTILITIES CODE ANN. §104.301 and 16 TEX. ADMIN. CODE § 7.7101 (2004), Atmos West Texas is required to seek Commission approval before implementing an interim rate adjustment tariff for environs customers.

Atmos West Texas filed its applications for interim rate adjustments for changes in investment in accordance with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

Atmos West Texas' application for an interim rate adjustment was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE §7.7101 (2004).

In accordance with 16 TEX. ADMIN. CODE § 7.315 (2002), within thirty days of the effective date of any change to rates or services, Atmos West Texas is required to file with the Gas Services Division of the Commission its revised tariffs.

Atmos West Texas may not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE ANN. § 102.151 and 104.002 and 16 TEX. ADMIN. CODE § 7.315 (2002).

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In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(a) (2004), the filing date of Atmos West Texas' most recent rate case, in which there is a final order setting rates for the area in which the interim rate adjustment will apply, was no more than two years prior to the date Atmos filed its initial interim rate adjustment.

Atmos West Texas is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(d) (2004), to file with the Commission an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

Atmos West Texas shall include in all future annual interim rate adjustment filings, relocation project reports that provide additional information about relocation project costs included in investment projects, in the same format as required in this docket.

Atmos West Texas is required, under TEX. UTIL. CODE ANN. §104.301(f) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004), to file with the Commission an annual earnings monitoring report demonstrating the Utility's earnings during the preceding calendar year.

Atmos West Texas is required, under 16 TEX. ADMIN. CODE § 7.7101(h) (2004), to recalculate its approved interim rate adjustments annually and is required to file an application for an annual adjustment no later than 60 days prior to the one-year anniversary of the proposed implementation date of the previous interim rate adjustment application.

In accordance with 16 TEX. ADMIN. CODE § 7.7101(i) (2004), all amounts collected from customers under Atmos West Texas' interim rate adjustment tariffs or rate schedules are subject to refund. The issues of refund amounts, if any, and whether interest should be included on refunded amounts and, if so, the rate of interest, shall be addressed in the rate case a gas utility files or the Commission initiates after the implementation of an interim rate adjustment and shall be the subjects of specific findings of fact in the Commission's final order setting rates.

In accordance with 16 TEX. ADMIN. CODE § 7.7101(j) (2004), in the rate case that Atmos West Texas files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall be fully subject to review for reasonableness and prudence. Upon issuance of a final order setting rates in the rate case that Atmos West Texas files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall no longer be subject to review for reasonableness or prudence.

The Commission has authority to suspend the implementation of the interim rate adjustment, under TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004).

Atmos West Texas provided adequate notice, in accordance with TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(b) (2004).

Atmos West Texas' applications for interim rate adjustments, as proposed, comply with all provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

Atmos West Texas' interim rate adjustments established in the findings of fact and conclusions of law, comply with the provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

In accordance with TEX. UTIL. CODE ANN. § 104.301(h) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(l) (2004), Atmos West Texas shall file a comprehensive rate case for the areas in which the interim rate adjustment is implemented, not later than the 180th day after the fifth anniversary of the date its initial interim rate adjustment became effective.

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The Commission has authority, under TEX. UTIL. CODE ANN. § 104.301(j) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(m) (2004), to recover from Atmos West Texas the Utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Atmos West Texas' interim rate adjustments as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for bills rendered after December 13, 2005.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, a relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, an annual earnings monitoring report demonstrating Atmos West Texas's earnings during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** file with the Commission no later than September 1, 2006, recalculations of its approved interim rate adjustments and applications for annual interim rate adjustments for the preceding calendar year.

IT IS FURTHER ORDERED THAT within 30 days of this order Atmos West Texas **SHALL** electronically file its interim rate adjustment tariffs in proper form that accurately reflect the rates approved by the Commission in this Order.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** not charge any rate that has not been electronically filed and accepted by the Commission as a tariff.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** reimburse the expenses incurred by the Commission in reviewing these applications. The amount of this reimbursement shall be determined by the Director of the Gas Services Division and must be approved by the Commission. This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

Any portion of the Utility's application not expressly granted herein is overruled. All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 13th day of December, 2005.

RAILROAD COMMISSION OF TEXAS

/s/

DECEMBER 12, 2005

ELIZABETH A. JONES
CHAIRMAN

MICHAEL L. WILLIAMS
COMMISSIONER

/s/
VICTOR G. CARRILLO
COMMISSIONER

ATTEST

/s/ Kim Williamson
SECRETARY

EXHIBIT A

IRA Rider Tariff

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Exhibit "A"

Atmos Energy, West Texas Division
Lubbock Service Area
Lubbock Rate Division

Rider: IRA

Infrastructure Rate Adjustment

Applicability

Company may implement an adjustment (called "Infrastructure Rate Adjustment" or "IRA") to the Customer Charge or Meter Charge contained in Residential, Commercial, Industrial, Public Authority and State Institution rate schedules. The Rider IRA adjustment will become effective 60 days after the Company files (i) an annual report pursuant to Texas Utilities Code (TUC) Section 104.301(e), describing the investment projects completed and placed in service during the preceding calendar year and/or partial years since the Company's last test year end and the investments retired or abandoned during the same period, and (ii) an earnings monitoring report pursuant to TUC Section 104.103(f), demonstrating Company's System Earnings during the preceding calendar year.

Method of Calculation

The IRA is determined by applying the appropriate factors for depreciation expense, property taxes, revenue related taxes, return and federal income taxes from the Company's last approved rate case for the Lubbock Rate Division to the change in either Utility Plant Investment or Net Utility Plant Investment, from the end of the previous calendar year per book amounts to either (a) the last effective rate case Utility Plant or Net Utility Plant Investment amounts if the test year utilized in such rate case was the second previous calendar year or (b) the end of the second previous calendar year per book Utility Plant or Net Utility Plant Investment amounts. The individual rate class adjustments for Residential, Commercial, Industrial, Public Authority and State Institution schedules shall be calculated as provided for on Schedule IRA-16 of the GRIP filing.

Increase per Bill per Month

(to be applied to monthly customer charge)

Residential	\$1.21
Commercial	\$3.49
Industrial	\$38.82
Public Authority	\$17.29
State Authority	\$15.18

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EFFECTIVE:

ISSUED BY: C.W. Guy, Vice President – Rates & Regulatory Affairs

**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

APPLICATION OF ATMOS ENERGY CORP., MID-TEX DIVISION AND ATMOS PIPELINE- TEXAS FOR ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM RATE ADJUSTMENT FOR THE ENVIRONS AREA AND PIPELINE SYSTEM		GAS UTILITIES DOCKET NO. 9615
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FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN, Chapter 551 (Vernon 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Background

1. Atmos Energy Corporation (Atmos) is a “gas utility,” as that term is defined in the TEXAS UTILITY CODE, and is subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. Atmos Pipeline – Texas (Pipeline), a division of Atmos, owns and operates a gas pipeline transportation system.
3. Atmos Energy Corporation, Mid-Tex Division (Distribution), a division of Atmos, owns and operates a gas distribution system.
4. On September 20, 2005, Distribution filed an application for an annual interim rate adjustment applicable to customers located in its Mid-Tex System environs area.
5. On September 20, 2005, Pipeline filed an application for an Annual Interim Rate Adjustment applicable to customers located on its pipeline system.
6. The two applications, for Distribution and Pipeline, are addressed in this single docket.
7. Atmos requested that the interim rate adjustments for all customer classes become effective on November 19, 2005.
8. On September 28, 2005, the Commission suspended implementation of Atmos’ proposed interim rate adjustments until January 3, 2006, which is 45 days following the 60th day after the applications were complete.

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9. The Commission received one letter opposing the proposed increase. Cal-Tex Feed Yard filed a letter opposing the proposed rate increase by Pipeline.
10. TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005) does not provide a remedy for parties that oppose an annual interim rate adjustment.
11. 16 TEX. ADMIN. CODE, §7.7101 (2004) allows written comments or a protest concerning the proposed interim rate adjustment to be filed with the Gas Services Division.
12. The Atmos Cities Steering Committee (ACSC) filed with the Commission a Plea of Intervention in the cause of Atmos Energy Corp., Mid-Tex Division's application for an interim rate adjustment.
13. The Atmos Texas Municipalities (ATM) filed with the Commission a Plea of Intervention in the cause of Atmos Energy Corp., Mid-Tex Division's application for an interim rate adjustment.
14. Neither TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005) nor 16 TEX. ADMIN. CODE, §7.7101 (2004) provides the opportunity for parties to intervene in the Commission's review of an application for an annual interim rate adjustment.
15. This docket is the second annual interim rate adjustment for the distribution system environs of Atmos Energy Corp., Mid-Tex Division and the intrastate pipeline system of Atmos Pipeline - Texas.
16. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005), a utility could not increase its rates applicable to environs customers without filing with the Commission a formal statement of intent rate case, including a comprehensive cost of service rate review.
17. Atmos' proposed interim rate adjustments will allow Pipeline and Distribution an opportunity to recover a return on investment, depreciation expense, and related taxes on the incremental cost of infrastructure investment since its last rate case, without the necessity of filing a statement of intent rate case and without review by the Commission of Atmos' comprehensive cost of service.

Applicability

18. This docket applies to only those rates over which the Commission has original jurisdiction, including the entire Pipeline system, with the exception of rates negotiated separately, and all of the Distribution system environs customers.
19. As of year-end 2004, Distribution environs customers included approximately 32,059 Residential customers, 2,095 Commercial customers, and 67 Industrial Sales and Transport customers and Pipeline included approximately 798 City Gate meters and 180 Pipeline Transportation rate meters.

Most Recent Comprehensive Rate Case

20. Atmos' most recent rate case for the area in which the interim rate adjustment will be implemented is GUD No. 9400, *Statement of Intent Filed by TXU Gas Company to Change Rates in the Company's Statewide Gas Utility System*.
21. GUD No. 9400 was filed on May 23, 2003.
22. The data used in GUD No. 9400 was based on a test-year ending December 31, 2002.
23. The Commission signed the GUD No. 9400 final Order on May 25, 2004, and the rates became effective the same day.

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24. The rates currently charged by Atmos were set by the Commission in GUD No. 9400.
25. The following chart shows the factors that were used for both Pipeline and Distribution to establish or used in the final Order setting rates in GUD No. 9400 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes.

GUD 9400 CALCULATION FACTORS

Factor	Pipeline	Distribution
Rate of Return	8.258 %	8.258 %
Depreciation Rate	2.097 %	3.539 %
Federal Income Tax Rate	35 %	35 %
Ad Valorem Tax Rate	1.305 %	1.550 %

Interim Rate Adjustment

26. Atmos seeks approval from the Commission for an adjustment to its revenue, based on incremental net utility plant investment, with regard to the following components: return on investment; depreciation expense; ad valorem taxes; revenue related taxes; and federal income taxes.
27. The revenue amounts to be recovered through Atmos' proposed annual interim rate adjustments are incremental to the revenue requirement established in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented, i.e., GUD No. 9400.
28. Atmos calculated and presented all incremental values for investment, accumulated depreciation, return on investment, depreciation expense, ad valorem taxes, and incremental federal income taxes on a full calendar-year basis. Revenue related taxes are not included in Atmos' calculation of the interim rate adjustments. An existing rate schedule that was established by the final Order in GUD No. 9400 (Rider TAX) is applied to all revenues, including revenues that result from an interim rate adjustment.
29. For the first interim rate adjustment following a rate case, the amounts by which Atmos may adjust its rates are based on the difference between Pipeline and Distribution's invested capital at the end of the most recent rate case test-year (December 31, 2003) and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year (December 31, 2002).
30. This docket is the second annual interim rate adjustment for Atmos. Therefore, to request its interim rate adjustments in this docket, Atmos submitted data for the calendar year ending December 31, 2004.
31. The value of Atmos' invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment for both Pipeline and Distribution interim rate adjustments.
32. Atmos' incremental net utility plant investment increase is \$10,640,163 for Pipeline and \$28,902,652 for Distribution.
33. Atmos is required to use the same factors to calculate the interim return on investment, depreciation expense, and incremental federal income tax as those established or used in the final order setting rates in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented.

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34. Atmos is required to allocate the revenue to be collected through the interim rate adjustment among its customer classes in the same manner as the cost of service was allocated among its customer classes in its most recent rate case for the area in which the interim rate adjustment is to be implemented.
 35. Atmos proposed the interim rate adjustment as a flat rate to be applied to the monthly customer charges and monthly meter charges rather than as a volumetric rate to be applied to the initial block usage rates.
 36. Atmos is required to show its annual interim rate adjustments on its customers' monthly billing statements as a surcharge.
 37. The proposed interim rate adjustment does not require an evidentiary proceeding; rather, TEXAS UTILITIES CODE, §104.301 and 16 TEX. ADMIN. CODE, §7.7101 require the regulatory authority to review a utility's method of calculating the interim rate adjustment.
 38. Due process protections are deferred until Atmos files its next full statement of intent rate case.

Notice

39. Atmos provided adequate notice to its Distribution Residential (R) and Commercial (C) customers between October 5, 2005 and November 1, 2005.
40. Atmos provided adequate notice to its Distribution Industrial (I) and Transportation (T) customers on November 4, 2005.
41. Atmos provided adequate notice to its Pipeline transportation (PT) customers and City Gate Service (CGS) customers that are subject to Rate PT on November 4, 2005.

Comprehensive Rate Case Required

42. Atmos is not required to initiate a rate case supporting a statement of intent, at the time it applies for an interim rate adjustment.
43. A gas utility that implements an interim rate adjustment and does not file a rate case before the fifth anniversary of the date its initial interim rate adjustment became effective is required to file a rate case not later than the 180th day after that anniversary.

Review of Interim Rate Adjustment

44. Atmos' proposed allocation methodology complies with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
45. For allocation methodology, it is reasonable for the Commission to approve use of Atmos' overall cost of service (less other revenue, gas cost, and revenue related taxes) as determined in its most recent rate case. The following overall cost of service allocation factors for use in the calculation of Atmos' interim rate adjustment are reasonable:

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Customer Class	Allocation Factors
Distribution:	
Residential (R)	0.7066
Commercial (C)	0.2147
Industrial Sales & Transport (I & T)	0.0788
Pipeline:	
City Gate Service (CGS)	0.7317
Pipeline Transport (PT)	0.2683

46. Atmos' proposed customer and meter counts comply with TEXAS UTILITIES CODE, §104.301, and with 16 TEX. ADMIN. CODE, §7.7101.
47. For calculating the number of customer charges or meter charges per year, it is reasonable for the Commission to approve use of Pipeline and Distribution's 2004 year-end number of customers multiplied by twelve. The following total numbers of customer and meter charges for use in the calculation of the interim rate adjustment are reasonable:

Customer Class	Total Number of Customer Charges / Meters
Distribution:	
Residential (R)	16,430,676
Commercial (C)	1,494,108
Industrial Sales & Transport (I & T)	12,732
Total	17,937,516
Pipeline:	
City Gate Service (CGS)	9,204
Pipeline Transport (PT)	2,448
Total	11,752

48. It is reasonable for the Commission to approve Atmos' applications for interim rate adjustments. The following amounts of interim rate adjustment revenue and additional customer charges by customer class are reasonable:

Customer Class	Interim Rate Adjustment Revenue	Additional Customer / Meter Charges
Distribution:	\$6,731,115	
Residential (R)	4,756,051	\$0.29
Commercial (C)	1,444,854	\$0.97
Industrial (I & T)	530,210	\$41.64
Pipeline:	\$1,918,699	
City Gate (CGS)	1,403,829	\$152.52
Transport (PT)	514,870	\$210.32

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Reimbursements of Expense

49. As provided for in the statute and the rule, a gas utility that implements an interim rate adjustment is required to reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.
50. After the Commission has finally acted on Atmos' application for an interim rate adjustment, the Director of the Gas Services Division will estimate Atmos' proportionate share of the Commission's annual costs related to the processing of such applications.
51. In making the estimate of Atmos' proportionate share of the Commission's annual costs related to the processing of such applications, the Director will take into account the number of utilities the Commission reasonably expects to file for interim rate adjustments during the fiscal year, and the costs expected to be incurred in processing such applications.
52. Atmos is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division and approved by the Commission, within thirty days after receipt of notice of the amount of the reimbursement.

CONCLUSIONS OF LAW

Atmos Energy Corporation (Atmos) is a "gas utility" as defined in TEX. UTIL. CODE ANN. § 101.003(7) (Vernon 1998 and Supp. 2004) and § 121.001 (Vernon 1998 and Supp. 2004-2005), and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).

The Commission has jurisdiction over Atmos, Atmos' applications for interim adjustments for incremental changes in investment, and the subject matter of this case under TEX. UTIL. CODE ANN. §102.001, §104.001, §104.002, and §104.301 (Vernon 1998 and Supp. 2004-2005).

Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004-2005), the Commission has exclusive original jurisdiction over the rates and services of a gas utility that distributes natural gas in areas outside of a municipality and over the rates and services of a gas utility that transmits, transports, delivers, or sells natural gas to a gas utility that distributes the gas to the public.

Under the provisions of the TEXAS UTILITIES CODE ANN. §104.301 and 16 TEX. ADMIN. CODE § 7.7101 (2004), Atmos is required to seek Commission approval before implementing an interim rate adjustment tariff for environs customers.

Atmos filed its applications for interim rate adjustments for changes in investment in accordance with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

Atmos' application for an interim rate adjustment was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE §7.7101 (2004).

In accordance with 16 TEX. ADMIN. CODE § 7.315 (2002), within thirty days of the effective date of any change to rates or services, Atmos is required to file with the Gas Services Division of the Commission its revised tariffs.

Atmos may not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE ANN. § 102.151 and 104.002 and 16 TEX. ADMIN. CODE § 7.315 (2002).

In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(a) (2004), the filing date of Atmos' most recent rate case, in which there is a final order setting rates for the area

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in which the interim rate adjustment will apply, was no more than two years prior to the date Atmos filed its initial interim rate adjustment.

Atmos is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(d) (2004), to file with the Commission an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

Atmos shall include in all future annual interim rate adjustment filings, relocation project reports that provide additional information about relocation project costs included in investment projects, in the same format as required in this docket.

Atmos is required, under TEX. UTIL. CODE ANN. §104.301(f) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004), to file with the Commission an annual earnings monitoring report demonstrating the Utility's earnings during the preceding calendar year.

Atmos is required, under 16 TEX. ADMIN. CODE §7.7101(h) (2004), to recalculate its approved interim rate adjustments annually and is required to file an application for an annual adjustment no later than 60 days prior to the one-year anniversary of the proposed implementation date of the previous interim rate adjustment application.

In accordance with 16 TEX. ADMIN. CODE § 7.7101(i) (2004), all amounts collected from customers under Atmos' interim rate adjustment tariffs or rate schedules are subject to refund. The issues of refund amounts, if any, and whether interest should be included on refunded amounts and, if so, the rate of interest, shall be addressed in the rate case a gas utility files or the Commission initiates after the implementation of an interim rate adjustment and shall be the subjects of specific findings of fact in the Commission's final order setting rates.

In accordance with 16 TEX. ADMIN. CODE § 7.7101(j) (2004), in the rate case that Atmos files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall be fully subject to review for reasonableness and prudence. Upon issuance of a final order setting rates in the rate case that Atmos files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall no longer be subject to review for reasonableness or prudence.

The Commission has authority to suspend the implementation of the interim rate adjustment, under TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004).

Atmos provided adequate notice, in accordance with TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(b) (2004).

Atmos' applications for interim rate adjustments, as proposed, comply with all provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

Atmos' interim rate adjustments established in the findings of fact and conclusions of law, comply with the provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

In accordance with TEX. UTIL. CODE ANN. § 104.301(h) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(l) (2004), Atmos shall file a comprehensive rate case for the areas in which the interim rate adjustment is implemented, not later than the 180th day after the fifth anniversary of the date its initial interim rate adjustment became effective.

The Commission has authority, under TEX. UTIL. CODE ANN. § 104.301(j) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(m) (2004), to recover from Atmos the Utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.

DECEMBER 12, 2005

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Atmos' interim rate adjustments as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for bills rendered after December 13, 2005.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than September 19, 2006, for both Pipeline and Distribution, an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than September 19, 2006, for both Pipeline and Distribution, a relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than September 19, 2006, for both Pipeline and Distribution, an annual earnings monitoring report demonstrating Pipeline and Distribution's earnings during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the Commission no later than September 19, 2006, for both Pipeline and Distribution, recalculations of its approved interim rate adjustments and applications for annual interim rate adjustments for the preceding calendar year.

IT IS FURTHER ORDERED THAT within 30 days of this order Atmos **SHALL** electronically file its interim rate adjustment tariffs in proper form that accurately reflect the rates, as expressed in Exhibit A, approved by the Commission in this Order.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** not charge any rate that has not been electronically filed and accepted by the Commission as a tariff.

IT IS FURTHER ORDERED THAT Atmos **SHALL** reimburse the expenses incurred by the Commission in reviewing these applications. The amount of this reimbursement shall be determined by the Director of the Gas Services Division and must be approved by the Commission. This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

Any portion of the Utility's application not expressly granted herein is overruled. All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 13th day of December, 2005.

RAILROAD COMMISSION OF TEXAS

/s/
ELIZABETH A. JONES
CHAIRMAN

DECEMBER 12, 2005

MICHAEL L. WILLIAMS
COMMISSIONER

/s/ VICTOR G. CARRILLO
COMMISSIONER**ATTEST**

/s/ Kim Williamson
SECRETARY

EXHIBIT A
IRA Rates
GAS UTILITIES DOCKET NO. 9615:

Application of Atmos Energy Corp., Mid-Tex Division and Atmos Pipeline – Texas for Test Year 2004 Annual Gas Reliability Infrastructure Program Rate Adjustment for the Environs Area and Pipeline System.

	GUD No. 9400	GUD No. 9560	Proposed Increase
Customer Class	Initial Rate	1 st IRA	2nd IRA
Distribution:			
Residential (R)	\$9.00	\$0.29	\$0.29
Commercial (C)	\$15.50	\$0.96	\$0.97
Industrial & Transport (I & T)	\$150.00	\$31.85	\$41.64
Pipeline:			
City Gate Service (CGS)	\$200.00	\$137.66	\$152.52
Pipeline Transport (PT)	\$200.00	\$223.83	\$210.32

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**BEFORE THE
RAILROAD COMMISSION OF TEXAS**

APPEAL FILED BY ATMOS ENERGY CORP., MID-TEX DIVISION FOR REVIEW OF MUNICIPAL RATE ACTIONS REGARDING THE ANNUAL GRIP FROM THE CITIES OF ALVARADO, ANSON, ARGYLE, BARDWELL, BLOOMING GROVE, BRIDGEPORT, ET AL.	§ § § § § § § §	GAS UTILITIES DOCKET NO. 9623
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FINAL ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 2004). The Railroad Commission of Texas adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

Background

1. Atmos Energy Corporation (Atmos) is a "gas utility," as that term is defined in the TEXAS UTILITY CODE, and is subject to the jurisdiction of the Railroad Commission of Texas (Commission).
2. Atmos Energy Corporation, Mid-Tex Division (Distribution), a division of Atmos, owns and operates a gas distribution system.
3. On September 19 and September 20, 2005, Distribution filed applications for interim rate adjustments in each of the following cities: Alvarado, Anson, Argyle, Bardwell, Blackwell, Blooming Grove, Bridgeport, Caldwell, Chandler, Chico, Clarksville, Colorado City, Edom, Ennis, Euless, Forest Hill, Glenn Heights, Godley, Hamlin, Highland Park, Hutchins, Lake Dallas, Lakeport, Lipan, Loraine, Maypearl, Merkel, Munday, Newark, Richland Hills, Rio Vista, Shady Shores, Terrell, Tuscola, Tye, Wilmer, Woodway, Abilene, Addison, Allen, Anna, Arlington, Athens, Azle, Bedford, Benbrook, Benjamin, Beverly Hills, Blum, Brownsboro, Bryan, Carrollton, Comanche, Coppell, Duncanville, Ector, Edgecliff Village, Eustace, Everman, Fairview, Farmersville, Ferris, Flower Mound, Frankston, Garland, Georgetown, Glen Rose, Grand Prairie, Harker Heights, Haskell, Haslet, Hico, Hurst, Kerrville, Killeen, Lake Worth, Lakeside, Lancaster, Little Elm, McKinney, Mesquite, Murphy, North Richland Hills, Oak Leaf, Pantego, Parker, Plano, Poynor, Prosper, Richland, River Oaks, Robinson, Rockwall, Sache, Saginaw, San Angelo, Southmayd, Stamford, Stephenville, Sulphur Springs, The Colony, Trenton, University Park, Vernon, Waxahachie, and Whitehouse (Municipalities").
4. The interim rate adjustments apply only to those customers located within the city limits of each of the Municipalities.
5. Municipalities that denied or approved Atmos' proposed interim rate adjustment and the date of each Municipality's action is provided in Exhibit A, attached to this Order.
6. On November 3, 2005, Distribution filed with the Commission an appeal for Review of Municipal Actions Regarding the Atmos Energy Corp., Mid-Tex Division's Annual Gas Reliability Program Rate Adjustment applicable to the Cities of Alvarado, Anson, Argyle, Bardwell, Blackwell, Blooming Grove, Bridgeport, Caldwell, Chandler, Chico, Clarksville, Colorado City, Edom, Ennis, Euless, Forest Hill, Glenn Heights, Godley,

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Hamlin, Highland Park, Hutchins, Lake Dallas, Lakeport, Lipan, Loraine, Maypearl, Merkel, Munday, Newark, Richland Hills, Rio Vista, Shady Shores, Terrell, Tuscola, Tye, Wilmer, and Woodway.

7. On November 7, 2005, the Commission's Director of Gas Services suspended implementation of Atmos' proposed interim rate adjustment until January 3, 2006, which is 45 days following the 60th day after the application was complete.
8. On November 22, 2005, Distribution filed with the Commission an appeal for Review of Municipal Actions Regarding the Atmos Energy Corp., Mid-Tex Division's Annual Gas Reliability Program Rate Adjustment applicable to the Cities of Abilene, Addison, Allen, Anna, Arlington, Athens, Azle, Bedford, Benbrook, Benjamin, Beverly Hills, Blum, Brownsboro, Bryan, Carrollton, Comanche, Coppell, Duncanville, Ector, Edgecliff Village, Eustace, Everman, Fairview, Farmersville, Ferris, Flower Mound, Frankston, Garland, Georgetown, Glen Rose, Grand Prairie, Harker Heights, Haskell, Haslet, Hico, Hurst, Kerrville, Killeen, Lake Worth, Lakeside, Lancaster, Little Elm, McKinney, Mesquite, Murphy, North Richland Hills, Oak Leaf, Pantego, Parker, Plano, Poynor, Prosper, Richland, River Oaks, Robinson, Rockwall, SACHE, Saginaw, San Angelo, Southmayd, Stamford, Stephenville, Sulphur Springs, The Colony, Trenton, University Park, Vernon, Waxahachie, and Whitehouse.
9. On December 1, 2005 Atmos Cities Steering Committee (ACSC) filed with the Commission a Plea of Intervention in the cause of Atmos Energy Corp., Mid-Tex Division's appeal application for an interim rate adjustment representing Abilene, Addison, Allen, Argyle, Arlington, Bedford, Benbrook, Bridgeport, Colorado City, Carrollton, Comanche, Coppell, Duncanville, Edgecliff Village, Ennis, Everman, Fairview, Farmersville, Flower Mound, Garland, Grand Prairie, Harker Heights, Haskell, Haslet, Highland Park, Hurst, Kerrville, Killeen, Lake Worth, Lancaster, Little Elm, McKinney, Mesquite, Murphy, Newark, North Richland Hills, Pantego, Parker, Plano, Prosper, Richland Hills, Robinson, Rockwall, SACHE, Saginaw, San Angelo, Stamford, Stephenville, Sulphur Springs, The Colony, University Park, Vernon, Waxahachie, and Woodway.
10. Neither TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005) nor 16 TEX. ADMIN. CODE, §7.7101 (2004) provides the opportunity for parties to intervene in the Commission's review of an application for an annual interim rate adjustment.
11. Until promulgation of TEXAS UTILITIES CODE, §104.301 (Vernon Supp 2004-2005), a utility could not increase its rates applicable to customers located within a municipality without filing with the regulatory authority a formal statement of intent rate case, including a comprehensive cost of service rate review.
12. Atmos' proposed interim rate adjustments would allow Distribution an opportunity to recover a return on investment, depreciation expense, and related taxes on the incremental cost of infrastructure investment since its last rate case, without the necessity of filing a statement of intent rate case and without review by the regulatory authority of Atmos' comprehensive cost of service.

Applicability

13. This docket applies to only those rates over which the Commission has appellate jurisdiction, including customers located within a municipality served by the Distribution system.

Most Recent Comprehensive Rate Case

14. Atmos' most recent rate case for the area in which the interim rate adjustment will be implemented is GUD No. 9400, *Statement of Intent Filed by TXU Gas Company to Change Rates in the Company's Statewide Gas Utility System*.
15. GUD No. 9400 was filed on May 23, 2003.
16. The data used in GUD No. 9400 was based on a test-year ending December 31, 2002.

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17. The Commission signed the GUD No. 9400 final Order on May 25, 2004, and the rates became effective the same day.
18. The rates currently charged by Atmos to customers within the Municipalities were set by the Commission in GUD No. 9400.
19. The following chart shows the factors that were used to establish or used in the Final Order setting Distribution rates in GUD No. 9400 to calculate the return on investment, depreciation expense, incremental federal income tax, and ad valorem taxes.

GUD 9400 CALCULATION FACTORS

Factor	Distribution
Rate of Return	8.258 %
Depreciation Rate	3.539 %
Federal Income Tax Rate	35 %
Ad Valorem Tax Rate	1.550 %

Interim Rate Adjustment

20. Atmos seeks approval for an adjustment to its revenue, based on incremental net utility plant investment, with regard to the following components: return on investment; depreciation expense; ad valorem taxes; revenue related taxes; and federal income taxes.
21. The revenue amounts to be recovered through Atmos' proposed annual interim rate adjustment are incremental to the revenue requirement established in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented, i.e., GUD No. 9400.
22. Atmos calculated and presented all incremental values for investment, accumulated depreciation, return on investment, depreciation expense, ad valorem taxes, and incremental federal income taxes on a full calendar-year basis. Revenue related taxes are not included in Atmos' calculation of the interim rate adjustment. An existing rate schedule that was established by the final Order in GUD No. 9400 (Rider TAX) is applied to all revenues, including revenues that result from an interim rate adjustment.
23. To request its interim rate adjustment in this docket, Atmos submitted data for the calendar year ending December 31, 2004.
24. For the first interim rate adjustment following a rate case, the amounts by which Atmos may adjust its rates are based on the difference between Distribution's invested capital at the end of the most recent rate case test-year (December 31, 2003) and the invested capital at the end of the calendar-year following the end of the most recent rate case test-year (December 31, 2002).
25. This docket is the second annual interim rate adjustment for Atmos. Therefore, to request its interim rate adjustments in this docket, Atmos submitted data for the calendar year ending December 31, 2004.
26. The value of Atmos' invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment for Distribution interim rate adjustments.
27. Atmos' incremental net utility plant investment is \$28,902,652 for Distribution. The interim rate adjustment is determined on a system wide basis and the same adjustments are applied to all Distribution customers, including those served by the municipalities in this docket.

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28. Atmos is required to use the same factors to calculate the interim return on investment, depreciation expense, and incremental federal income tax as those established or used in the final order setting rates in Atmos' most recent rate case for the area in which the interim rate adjustment is to be implemented.
29. Atmos is required to allocate the revenue to be collected through the interim rate adjustment among its customer classes in the same manner as the cost of service was allocated among its customer classes in its most recent rate case for the area in which the interim rate adjustment is to be implemented.
30. Atmos proposed the interim rate adjustment as a flat rate to be applied to the monthly customer charges and monthly meter charges rather than as a volumetric rate to be applied to the initial block usage rates.
31. Atmos is required to show its annual interim rate adjustment on its customers' monthly billing statements as a surcharge.
32. The proposed interim rate adjustment does not require an evidentiary proceeding; rather, TEXAS UTILITIES CODE, §104.301 and 16 TEX. ADMIN. CODE, §7.7101 require the regulatory authority to review a utility's method of calculating the interim rate adjustment.
33. The Commission's Director of Gas Services Division afforded the Municipalities an opportunity to submit comments.

Notice

34. Atmos provided adequate notice to its Distribution customers within 45 days from the date it filed its application with the municipalities. Residential and Commercial customers were noticed by bill insert. Industrial Sales and Transport customers were noticed via mail.
35. Atmos provided adequate notice via certified mail to the Municipalities simultaneous with filing its petition for review with the Commission.

Comprehensive Rate Case Requirements

36. At the time it applies for an interim rate adjustment, a Utility is not required to file a statement of intent or initiate a rate case with the regulatory authority.
37. A gas utility that implements an interim rate adjustment and does not file a rate case before the fifth anniversary of the date its initial interim rate adjustment became effective is required to file a rate case not later than the 180th day after that anniversary.

Review of Interim Rate Adjustment

38. For allocation methodology, it is reasonable for the Commission to approve use of Atmos' overall cost of service (less other revenue, gas cost, and revenue related taxes) as determined in its most recent rate case. The following overall cost of service allocation factors for use in the calculation of Atmos' interim rate adjustment are reasonable:

Customer Class	Allocation Factors
Distribution:	
Residential (R)	0.7066
Commercial (C)	0.2147
Industrial Sales & Transport (I & T)	0.0788

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39. For calculating the number of customer charges or meter charges per year, it is reasonable for the Commission to approve use of Distribution's 2004 year-end number of customers multiplied by twelve. The following total numbers of customer and meter charges for use in the calculation of the interim rate adjustment are reasonable:

Customer Class	Total Number of Customer Charges / Meters
Distribution:	
Residential (R)	16,430,676
Commercial (C)	1,494,108
Industrial Sales & Transport (I & T)	12,732
Total	17,937,516

40. It is reasonable for the Commission to approve Atmos' applications for interim rate adjustments, as revised by Atmos in its Statement of Intent. The following amounts of interim rate adjustment revenue and additional customer charges by customer class are reasonable:

Customer Class	Interim Rate Adjustment Revenue	Additional Customer / Meter Charges
Distribution:	\$6,731,115	
Residential (R)	4,756,051	\$0.29
Commercial (C)	1,444,854	\$0.97
Industrial (I & T)	530,210	\$41.64

Reimbursements of Expense

41. As provided for in the statute and the rule, a gas utility that implements an interim rate adjustment is required to reimburse the Commission for the utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.
42. After the Commission has finally acted on Atmos' application for an interim rate adjustment, the Director of the Gas Services Division will estimate Atmos' proportionate share of the Commission's annual costs related to the processing of such applications.
43. In making the estimate of Atmos' proportionate share of the Commission's annual costs related to the processing of such applications, the Director will take into account the number of utilities the Commission reasonably expects to file for interim rate adjustments during the fiscal year and the costs expected to be incurred in processing such applications.
44. Atmos is required to reimburse the Commission for the amount determined by the Director of the Gas Services Division and approved by the Commission, within thirty days after receipt of notice of the amount of the reimbursement.

CONCLUSIONS OF LAW

Atmos Energy Corporation (Atmos) is a "gas utility" as defined in TEX. UTIL. CODE ANN. § 101.003(7) (Vernon 1998 and Supp. 2004) and § 121.001 (Vernon 1998 and Supp. 2004-2005) and is therefore subject to the jurisdiction of the Railroad Commission of Texas (Commission).

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The Commission has jurisdiction over Atmos, Atmos' applications for interim adjustments for incremental changes in investment, and the subject matter of this case under TEX. UTIL. CODE ANN. §102.001, §104.001, §104.002, and §104.301 (Vernon 1998 and Supp. 2004-2005).

Under TEX. UTIL. CODE ANN. §102.001 (Vernon 1998 and Supp. 2004-2005), the Commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality regarding the rates and services of a gas utility that distributes natural gas in areas inside of a municipality.

Atmos filed its applications for interim rate adjustments for changes in investment in accordance with the provisions of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005).

The Railroad Commission's rule, 16 TEX. ADMIN. CODE §7.7101, Interim Rate Adjustments, governs applications for interim rate adjustment over which the Commission is exercising its original jurisdiction pursuant to TEX. UTIL. CODE §102.001, in environs areas. Nevertheless, in the absence of specific procedural and methodological requirements at the municipal level, it is reasonable for the Railroad Commission to use its own rule in evaluating the appeals in this docket. In addition, applying the provisions of the Commission's rule results in an interim rate adjustment in this docket that is consistent with the interim rate set by the Commission in GUD No. 9615.

Atmos' appeal for review of its proposed interim rate adjustments was processed in accordance with the requirements of TEX. UTIL. CODE ANN. §104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE §7.7101 (2004).

In accordance with 16 TEX. ADMIN. CODE § 7.315 (2002), within thirty days of the effective date of any change to rates or services, Atmos is required to file with the Gas Services Division of the Commission its revised tariffs.

Atmos may not charge any rate that has not been successfully filed and accepted as a tariff filing electronically pursuant to TEX. UTIL. CODE ANN. § 102.151 and 104.002 and 16 TEX. ADMIN. CODE § 7.315 (2002).

In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(a) (2004), the filing date of Atmos' most recent rate case, in which there is a final order setting rates for the area in which the interim rate adjustment will apply, was no more than two years prior to the date Atmos filed its initial interim rate adjustment.

Atmos is required, under TEX. UTIL. CODE ANN. §104.301(e) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(d) (2004), to file with the Commission an annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year. This annual project report shall be for the Distribution system as a whole.

Atmos shall include in all future annual interim rate adjustment filings, relocation project reports that provide additional information about relocation project costs included in investment projects, in the same format as required in this docket. This additional information shall be for the Distribution system as a whole.

Atmos is required, under TEX. UTIL. CODE ANN. §104.301(f) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004), to file with the Commission an annual earnings monitoring report demonstrating the Utility's earnings during the preceding calendar year. This annual earnings monitoring report shall be for the Distribution system as a whole.

Atmos is required, under TEX. UTIL. CODE ANN. §104.301(c) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE §7.7101(h) (2004), to recalculate its approved interim rate adjustments annually and is required to file an application for an annual adjustment no later than 60 days prior to the one-year anniversary of the proposed implementation date of the previous interim rate adjustment application. This recalculation of the Utility's approved interim rate adjustments and application for an annual adjustment shall be for the Distribution system as a whole.

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In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(i) (2004), all amounts collected from customers under Atmos' interim rate adjustment tariffs or rate schedules are subject to refund. The issues of refund amounts, if any, and whether interest should be included on refunded amounts and, if so, the rate of interest, shall be addressed in the rate case a gas utility files or the Commission initiates after the implementation of an interim rate adjustment and shall be the subjects of specific findings of fact in the Commission's final order setting rates.

In accordance with TEX. UTIL. CODE ANN. §104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(j) (2004), in the rate case that Atmos files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall be fully subject to review for reasonableness and prudence. Upon issuance of a final order setting rates in the rate case that Atmos files or the Commission initiates after the implementation of an interim rate adjustment, any change in investment and related expenses and revenues that have been included in any interim rate adjustment shall no longer be subject to review for reasonableness or prudence.

The Commission has authority to suspend the implementation of the interim rate adjustment, under TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(e) (2004).

Atmos provided adequate notice, in accordance with TEX. UTIL. CODE ANN. § 104.301(a) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(b) (2004).

Atmos' interim rate adjustments, as established in the findings of fact and conclusions of law, comply with the provisions of TEX. UTIL. CODE ANN. § 104.301 (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101 (2004).

In accordance with TEX. UTIL. CODE ANN. § 104.301(h) (Vernon Supp. 2004 – 2005) and 16 TEX. ADMIN. CODE § 7.7101(l) (2004), Atmos shall file a comprehensive rate case for the areas in which the interim rate adjustment is implemented, not later than the 180th day after the fifth anniversary of the date its initial interim rate adjustment became effective.

The Commission has authority, under TEX. UTIL. CODE ANN. § 104.301(j) (Vernon Supp. 2004-2005) and 16 TEX. ADMIN. CODE § 7.7101(m) (2004), to recover from Atmos the Utility's proportionate share of the Commission's annual costs related to the administration of the interim rate adjustment mechanism.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT Atmos' interim rate adjustments as requested and to the extent recommended to be approved in the findings of fact and conclusions of law are **HEREBY APPROVED** to be effective for bills rendered after the date of this order.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the regulatory authority no later than September 19, 2006, a system wide Distribution annual project report, including the cost, need, and customers benefited by the change in investment, and describing the investment projects completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the regulatory authority no later than September 19, 2006, a system wide Distribution relocation project report, which provides additional information about relocation costs included in investment projects, in the format provided in this docket.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the regulatory authority no later than September 19, 2006, a system wide Distribution annual earnings monitoring report demonstrating Distribution's earnings during the preceding calendar year.

IT IS FURTHER ORDERED THAT Atmos **SHALL** file with the regulatory authority no later than September 19, 2006, recalculations of its approved interim rate adjustments and applications for annual interim rate adjustments for the

DECEMBER 12, 2005

preceding calendar year. These recalculations shall be for the Distribution system as a whole.

IT IS FURTHER ORDERED THAT within 30 days of this order Atmos **SHALL** electronically file its interim rate adjustment tariffs in proper form that accurately reflect the rates approved by the Commission in this Order.

IT IS FURTHER ORDERED THAT Atmos West Texas **SHALL** not charge any rate that has not been electronically filed and accepted by the Commission as a tariff.

IT IS FURTHER ORDERED THAT Atmos **SHALL** reimburse the expenses incurred by the Commission in reviewing these applications. The amount of this reimbursement shall be determined by the Director of the Gas Services Division and must be approved by the Commission.

This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed.

If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

Any portion of the Utility's application not expressly granted herein is overruled. All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 13th day of December, 2005.

RAILROAD COMMISSION OF TEXAS

/s/

ELIZABETH A. JONES
CHAIRMAN

MICHAEL L. WILLIAMS
COMMISSIONER

/s/

VICTOR G. CARRILLO
COMMISSIONER

ATTEST

/s/ Kim Williamson

SECRETARY

DECEMBER 12, 2005

EXHIBIT A

List of Appeal Cities
MUNICIPAL ACTIONS
LIST OF CITIES/TOWNS DENYING INTERIM RATE REQUEST

City/Town Name	Action Taken	Date
Alvarado	Denied	10/17/2005
Anson	Denied	10/10/2005
Argyle	Denied	10/25/2005
Bardwell	Denied	10/3/2005
Blackwell	Approved	10/3/2005
Blooming Grove	Denied	10/3/2005
Bridgeport	Denied	10/18/2005
Caldwell	Denied	10/18/2005
Chandler	Denied	10/11/2005
Chico	Denied	10/18/2005
Clarksville	Denied	10/18/2005
Colorado City	Denied	10/24/2005
Edom	Denied	10/13/2005
Ennis	Denied	10/17/2005
Eules	Denied	10/11/2005
Forest Hill	Denied	10/4/2005
Glenn Heights	Denied	10/3/2005
Godley	Denied	10/20/2005
Hamlin	Denied	10/3/2005
Highland Park	Denied	10/24/2005
Hutchins	Denied	10/17/2005
Lake Dallas	Denied	10/13/2005
Lakeport	Denied	10/11/2005
Lipan	Denied	10/3/2005
Loraine	Denied	10/13/2005
Maypearl	Denied	10/10/2005
Merkel	Denied	10/10/2005
Munday	Denied	10/24/2005
Newark	Denied	10/20/2005
Richland Hills	Denied	10/25/2005
Rio Vista	Denied	10/11/2005
Shady Shores	Denied	10/3/2005
Terrell	Denied	10/18/2005

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City/Town Name	Action Taken	Date
Tuscola	Denied	10/3/2005
Tye	Denied	10/18/200
Wilmer	Denied	10/6/2005
Woodway	Denied	10/24/2005

City/Town Name	Action Taken	Date
Abilene	Denied	11/3/2005
Addison	Denied	11/8/2005
Allen	Denied	11/8/2005
Anna	Denied	10/25/2005
Arlington	Denied	11/8/2005
Athens	Denied	10/10/2005*
Azle	Denied	11/1/2005*
Bedford	Denied	10/25/2005
Benbrook	Denied	11/3/2005
Benjamin	Approved	10/13/2005
Beverly Hills	Approved	10/10/2005*
Blum	Denied	10/5/2005*
Brownsboro	Denied	11/10/2005
Bryan	Denied	11/8/2005
Carrollton	Denied	11/1/2005
Comanche	Denied	11/14/2005
Coppell	Denied	11/8/2005
Duncanville	Denied	11/1/2005
Ector	Denied	11/7/2005
Edgecliff Village	Denied	10/10/2005
Eustace	Denied	11/14/2005
Everman	Denied	11/8/2005
Fairview	Denied	11/1/2005*
Farmersville	Denied	11/8/2005
Ferris	Denied	11/7/2005
Flower Mound	Denied	11/7/2005
Frankston	Denied	11/8/2005
Garland	Denied	11/1/2005
Georgetown	Denied	11/8/2005
Glen Rose	Denied	11/14/2005
Grand Prairie	Denied	11/1/2005
Harker Heights	Denied	11/8/2005
Haskell	Denied	10/24/2005
Haslet	Denied	11/7/2005
Hico	Denied	11/14/2005
Hurst	Denied	11/8/2005
Kerrville	Denied	11/8/2005
Killeen	Denied	11/8/2005
Lake Worth	Denied	11/8/2005
Lakeside	Denied	11/10/2005
Lancaster	Denied	11/14/2005

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City/Town Name	Action Taken	Date
Little Elm	Denied	11/1/2005
McKinney	Denied	11/1/2005*
Mesquite	Denied	11/7/2005
Murphy	Denied	11/7/2005
North Richland Hills	Denied	10/24/2005
Oak Leaf	Denied	11/8/2005
Pantego	Denied	10/24/2005
Parker	Denied	11/8/2005
Plano	Denied	11/14/2005
Poynor	Denied	11/8/2005
Prosper	Denied	10/25/2005
Richland	Denied	10/13/2005*
River Oaks	Denied	10/25/2005
Robinson	Denied	11/8/2005
Rockwall	Denied	11/7/2005
Sache	Denied	11/7/2005
Saginaw	Denied	11/1/2005
San Angelo	Denied	11/15/2005
Southmayd	Denied	11/1/2005*
Stamford	Denied	11/7/2005
Stephenville	Denied	11/1/2005*
Sulphur Springs	Denied	11/1/2005
The Colony	Denied	11/7/2005
Trenton	Denied	11/3/2005
University Park	Denied	11/8/2005
Vernon	Denied	10/25/2005
Waxahachie	Denied	11/7/2005
Whitehouse	Denied	11/15/2005

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EXHIBITIRA Rates
GAS

	GUD No. 9400	Various Dockets	Proposed Increase
Customer Class	Initial Rate	1 st IRA	2nd IRA
Distribution:			
Residential (R)	\$9.00	\$0.29	\$0.29
Commercial (C)	\$15.50	\$0.96	\$0.97
Industrial & Transport (I & T)	\$150.00	\$31.85	\$41.64

B**UTILITIES DOCKET NO. 9623:**

Appeal filed by Atmos Energy Corp., Mid-Tex Division for Review of Municipal Rate Actions Regarding the Annual GRIP from the Cities of Alvarado, Anson, Argyle, Bardwell, Blooming Grove, Bridgeport, et al.

Exhibit B

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SECTION 6
MISCELLANEOUS

STEPHEN L. PITNER, GAS SERVICES DIVISION DIRECTOR

1. OFFICE OF THE DIRECTOR

A. Publications

1. Texas Utilities Code Titles 3 and 4. Now available at the State of Texas' website at:
<http://www.capitol.state.tx.us/statutes/uttoc.html>

Special Rules of Practice and Procedure and Substantive Rules. Now available thru the Commission's Website at:
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext_ViewTAC?tac_view=4&ti=16&pt=1&ch=7](http://info.sos.state.tx.us/pls/pub/readtac$ext_ViewTAC?tac_view=4&ti=16&pt=1&ch=7)
2.
 - a. Annual Report for Fiscal Year 2004 – Now available via the Commission's website at:
<http://www.rrc.state.tx.us/divisions/gs/TABLECON04.htm>
 - b. Annual Report for Fiscal Year 2003 – Now available via the Commission's website at:
<http://www.rrc.state.tx.us/divisions/gs/tablecontents03.html>
 - c. Annual Report for Fiscal Year 2002 – Now available via the Commission's website at:
<http://www.rrc.state.tx.us/divisions/gs/tablecontents02.html>
 - d. Annual Report for Fiscal Year 2001 – available via the Commission's website at:
<http://www.rrc.state.tx.us/divisions/gs/tablecontents01.html>
 - e. Annual Report for Fiscal Year 2000 - \$17.00 (includes statistical data for 1999)
 - f. Annual Report for Fiscal Year 1999 - \$9.00 (includes statistical data for 1998)
 - g. Annual Report for Fiscal Year 1998 - \$7.00 (includes statistical data for 1997)
3. Six MCF Monthly Residential Gas Bill Analysis for Twenty-five Texas Cities - \$2.00 – Now available via the Commission's website at:
<http://www.rrc.state.tx.us/divisions/gs/rap/sixmcf.html>

Anyone who wishes to obtain a copy of any of the publications or maps listed in Section A should contact the Central Records Section at 512-463-6887 OR 512-463-6882 P. O. Box 12967, Austin, Texas 78711-2967.

B. Interest Rate on Customer Deposits

We have been advised by the Public Utility Commission that the interest rate to be applied to customer deposits in calendar year 2006 is 3.09%. All gas utilities should use this rate beginning January 1, 2006. Utilities must calculate interest on deposits using 6.00% thru December 31, 2005. Please see the following notice. This notice is also posted on the Commission's website under [What's New @ the RRC?](#)

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RAILROAD COMMISSION OF TEXAS
Gas Services Division

■ ■ ■ ■ ■ ■ ■ ■ ■ ■ Notice ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

The following news release by the Public Utility Commission was made on Thursday, December 1, 2005:

PUC Sets 2006 Interest Rate

Rates Set for Customer Deposits

Customers will receive 3.09% interest on utility deposits in 2006 according to the PUC.

The effective date of this change is beginning January 1, 2006. Natural gas utilities must calculate interest on deposits using 6% through December 31, 2005, and 3.09% beginning January 1, 2006.

Natural gas utilities in the State of Texas who collect a deposit must pay interest on deposits held for more than 30 days. H.B. No. 3460 amended Texas Utilities Code § 183.003, Rate of Interest, to base the calculation of the interest rate on Treasury Bills. The House Bill removed the previous interest rate floor set at 6 percent.

You may review a copy of H.B. 3460 at <http://www.sos.state.tx.us/statdoc/bills/hb/HB3460.pdf>

The Texas Utilities Code available from the Commission's website will not be updated by the State of Texas until March 2006. If you have questions concerning this notice, you may call Mark Brock at (512) 463-7018 or email at mark.brock@rrc.state.tx.us.

2. UTILITY AUDIT SECTION

A. Maintains headquarters and three district offices as follows:

Headquarters - William B. Travis Building

1701 North Congress, P. O. Box 12967, Austin, Texas 78701

Ed Abrahamson, Director, Utility Audit Section

Shannon Miller, Program Specialist

Pearl Rodriguez, Program Specialist

Rachel Hampton, Administrative Assistant

Telephone (512) 463-7022

Fax (512) 475-3180

Dallas District- 1546 Rowlett Rd., Suite 107, Garland, Texas 75043

Telephone (972) 240-5757

Fax (972) 303-1897

Yolandra Davis, Auditor

Josh Settle, Auditor

Austin District- P. O. Box 12967, Austin, Texas 78711-2967

Telephone (512) 463-7022

Fax (512) 475-3180

Stephen Cooper, Senior Auditor

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Houston District- 1706 Seamist Drive, Suite 501
Houston, TX 77008-3135
869-3219

Telephone (713) 869-8425
Fax (713)

Margie Stoney, Senior Auditor
Larry Alcorn, Auditor
Dale Francis, Auditor
Bryan L. Sparkman, Auditor
Konata Uzoma, Auditor

B. Gas Utility Tax, Annual Reports and Audit Reports

1. Questions relating to gas utility tax, call Rachel Hampton at (512) 463-7022.
2. Questions relating to annual reports, call Rachel Hampton or Pearl Rodriguez at (512) 463-7022.
3. Inquiries relating to audit reports, call Pearl Rodriguez at (512) 463-7022.

C. Available Information

Copies of gas utility annual reports (1999 to present), as well as information relating to any of the above, A through C, are available for review at the William B. Travis Building, Gas Services Division, 9th Floor, 1701 North Congress. All requests for copies must be made in writing and should be addressed to the Audit Section. Copies will be provided for a fee, depending on the volume of copy work desired, allow a minimum of five days for completion of requests. Inquiries regarding copies should be directed to the Audit Section at (512) 463-7022, or Fax your request to (512) 475-3180.

3. MARKET OVERSIGHT

A. Maintains the following office to assist you:

Headquarters - William B. Travis Building
1701 North Congress, P.O. Box 12967, Austin, Texas 78711
William O. Geise, Director

Telephone (512) 463-7164

B. Gas Utilities Information Bulletin

Published on the Commission's web site at: <http://www.rrc.state.tx.us/divisions/gs/rap/rapbls.html>

C. Proposals For Decision

Published on the Commission's web site at: <http://www.rrc.state.tx.us/divisions/gs/rap/pfds.html>

D. Tariff Filings

Questions pertaining to the filing of tariffs and/or quality of service rules should be directed to Kathy Arroyo, Yolanda Lovelace or Marie Blanco at (512) 463-7167.

E. Curtailments

Curtailment questions should be referred to (512) 463-7167. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7167. Curtailment reports made during hours other than those specified above and holidays, should be made to (512) 463-6788.

F. Compliance Filings

Questions regarding gas utilities docket compliance filing requirements should be referred to Mark Brock at (512) 463-7164.

G. Complaints and Inquiries

All complaints and inquiries relating to the gas utility industry should be directed to the Market Oversight Section at (512) 463-7164.

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H. Pending RRC Rules and Regulations:

GUD No. 9277 Amendments to §7.305 Curtailment Rule

4. HEARINGS AND LEGAL ANALYSIS

A. Miscellaneous

Anyone wishing to obtain copies of appendices to Orders appearing in Section 5 of this Bulletin should contact the Legal Division at (512) 463-7017.

B. Status of Pending Cases

The status of all pending cases listed in Section 3 of this Bulletin is for informational purposes only and is complete up to the time of printing of this Bulletin. For a more accurate status of pending cases, please call the Legal Division at (512) 463-7017.